

Margaret Sims /EAC/GOV  
11/16/2005 01:12 PM

To ghillman@eac.gov, pdegregorio@eac.gov,  
rmartinez@eac.gov, donetta.davidson@sos.state.co.us  
cc Sheila A. Banks/EAC/GOV@EAC, Amie J.  
Sherrill/EAC/GOV@EAC, Adam Ambrogi/EAC/GOV@EAC,  
Eileen L. Collver/EAC/GOV@EAC, Gavin S.  
bcc  
Subject RESPONSE REQUESTED-Working Group for Voting Fraud  
and Voter Intimidation Project

Dear Commissioners:

The consultants' contracts for EAC's voting fraud and voter intimidation project require Tova Wang and Job Serebrov to work in consultation with EAC staff and the Commissioners "to identify a working group of key individuals and representatives of organizations knowledgeable about the topics of voting fraud and voter intimidation". The contracts do not specify the number of working group members but, as EAC has to pay for the group's travel and we want the size of the group to be manageable, I recommend that we limit the number to 6 or 8. **Please let me know if you think that this limit is too conservative** .

Attached for your review and comment are two lists of potential working group members for this project. One list was submitted by Job, the other by Tova. Tova and Job have provided brief summaries of each candidate's relevant experience and have placed asterisks next to the names of the individuals whom they particularly recommend. I can provide more extensive biographies of these individuals, if you need them. If EAC agrees that the recommended working group members are acceptable, an equal number may be selected from each list in order to maintain a balanced perspective.

Absent from the attached lists is the name of a representative from the U.S. Department of Justice's Election Crimes Branch. At this time, I am working through the DOJ bureaucracy to determine to what degree Craig Donsanto will be permitted to participate. If he cannot be named as a working group member, we may still be able to use him as a resource.

**Please provide your feedback to me no later than Monday , November 28.** I am available to meet with you if you would like to discuss this matter further.

Peggy Sims  
Research Specialist



Possible Working Group Members -Serebrov.doc Possible Working Group Members- Wang.doc

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## Possible Working Group Members - Serebrov

I recommend the first four with an \*

\***Mark (Thor) Hearne II**-Counsel to Republican National Committee; National Counsel to American Center for Voting Rights; National election counsel to Bush-Cheney, '04; Testified before U.S. House Administration Committee hearings into conduct of Ohio presidential election; Academic Advisor to Commission on Federal Election Reform (Baker-Carter Commission).

\***Todd Rokita**-Secretary of State, Indiana; Secretary Rokita strives to reform Indiana's election practices to ensure Indiana's elections are as fair, accurate and accessible as possible; Secretary Rokita serves on the nine-member Executive Board of the Election Assistance Commission Standards Board, charged by federal law to address election reform issues.

\***Patrick J. Rogers**-Partner/Shareholder, Modrall, Sperling, Roehl, Harris and Sisk, P.A., Albuquerque, New Mexico; 1991-2003 General Counsel to the New Mexico Republican Party; Election cases: *The Coalition to Expose Ballot Deception, et al v. Judy N. Chavez, et al*; Second Judicial District Court of Bernalillo County, New Mexico (2005); represented plaintiffs challenging petition procedures; *Miguel Gomez v. Ken Sanchez and Judy Chaves*; Second Judicial District Court of Bernalillo County, New Mexico (2005); residency challenge; *Moises Griego, et al v. Rebecca Vigil-Giron v. Ralph Nader and Peter Miguel Camejo*, Supreme Court for the State of New Mexico (2004); represented Ralph Nader and Peter Camejo, ballot access issues; *Larry Larrañaga, et al v. Mary E. Herrera and Rebecca Vigil-Giron*, Supreme Court of New Mexico (2004); voter identification and fraudulent registration issues; *Decker, et al v. Kunko, et al*; District Court of Chaves County, New Mexico (2004); voter identification and fraudulent registration issues; *Kunko, et al v. Decker, et al*; Supreme Court of New Mexico (2004); voter identification and fraudulent registration issues; *In the Matter of the Security of Ballots Cast in Bernalillo County in the 2000 General Election*; Second Judicial District Court of Bernalillo County, New Mexico (2000); voting and counting irregularities and fraud.

\***David A. Norcross**- Partner, Blank Rome LLP, Trenton NJ, Washington D.C; Chairman, New Jersey Republican State Committee, 1977 – 1981; General Counsel, Republican National Committee, 1993 – 1997; General Counsel, International Republican Institute; Counsel, The Center for Democracy; Vice Chairman, Commission on Presidential Debates; Executive Director, New Jersey Election Law Enforcement Commission

**Benjamin L. Ginsberg**-Served as national counsel to the Bush-Cheney presidential campaign; He played a central role in the 2000 Florida recount; He also represents the campaigns and leadership PACs of numerous members of the Senate and House, as well as the Republican National Committee, National Republican Senatorial Committee and

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National Republican Congressional Committee; His expertise is more in campaign finance.

**Cleta Mitchell**-Partner in the Washington, D.C. office of Foley & Lardner LLP; She advises corporations, nonprofit organizations, candidates, campaigns, and individuals on state and federal election and campaign finance law, and compliance issues related to lobbying, ethics and financial disclosure; Ms. Mitchell practices before the Federal Election Commission and similar federal and state enforcement agencies; Her expertise is more in campaign finance law.

**Mark Braden**-Of counsel at Baker & Hostetler; He concentrates his work principally on election law and governmental affairs, including work with Congress, the Federal Election Commission, state campaign finance agencies, public integrity issues, political broadcast regulation, contests, recounts, the Voting Rights Act, initiatives, referendums and redistricting; His expertise is mainly outside of the voter fraud area.

To: Peggy Sims  
From: Tova Wang  
Re: Working Group Recommendations  
Date: November 12, 2005

\*Wendy R. Weiser, Associate Counsel in the Democracy Program at the Brennan Center for Justice at NYU School of Law and an expert in federal and constitutional law, has done a great deal of research, writing, speaking, and litigating on voting rights and election law issues. As part of the Brennan Center's wide ranging activities in the area of democracy, Ms. Weiser is currently overseeing an analysis and investigation of recent allegations of voter fraud throughout the country.

\*Barbara Arnwine is Executive Director of the Lawyers Committee for Civil Rights Under Law, an organization that for four decades has been at the forefront of the legal struggle to secure racial justice and equal access to the electoral process for all voters. Notably, Ms. Arnwine and the organization have led the Election Protection program for the last several years, a nationwide grassroots education and legal effort deploying thousands of volunteers and using a nationally recognized voter hotline to protect voters' rights on election day.

\*Daniel Tokaji, professor and associate director of the Election Law Center at the Moritz College of Law at the Ohio State University, is one of the nation's foremost experts in election law and reform and ensuring equality in the voting system. Professor Tokaji frequently writes and speaks on democracy related issues at academic and practitioner conferences, on such issues as voting technology, fraud, registration, and identification requirements, as well as the interplay between the election administration practices and voting rights laws.

Donna Brazile is Chair of the Democratic National Committee's Voting Rights Institute, the Democratic Party's major initiative to promote and protect the right to vote created in response to the irregularities of the 2000 election, and former Campaign Manager for Gore-Lieberman 2000 (the first African American to lead a major presidential campaign.) Brazile is a weekly contributor and political commentator on CNN's Inside Politics and American Morning, a columnist for Roll Call Newspaper and a contributing writer for Ms. Magazine.

Wade Henderson is the Executive Director of the Leadership Conference on Civil Rights (LCCR) and Counsel to the Leadership Conference on Civil Rights Education Fund (LCCREF), an organization at the forefront of defending voting rights for the last fifty years. Prior to his role with the Leadership Conference, Mr. Henderson was the Washington Bureau Director of the National Association for the Advancement of Colored People (NAACP)

Robert Bauer is the Chair of the Political Law Practice at the law firm of Perkins Coie, National Counsel for Voter Protection, Democratic National Committee, Counsel to the Democratic Senatorial and Congressional Campaign Committees and Co-Author, Report

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of Counsel to the Senate Rules and Administration Committee in the Matter of the United States Senate Seat from Louisiana in the 105<sup>th</sup> Congress of the United States, (March 27, 1997). He is the author of *United States Federal Election Law*, and one of the foremost attorneys in the country in the area of federal/state campaign finance and election laws.

Laughlin McDonald has been the executive director of the Southern Regional Office of the ACLU since 1972 and as the Director of the ACLU Voting Rights Project, McDonald has played a leading role eradicating discriminatory election practices and protecting the gains in political participation won by racial minorities since passage of the 1965 federal Voting Rights Act. During the past two decades, McDonald has broken new ground by expanding ACLU voting rights cases to include representation of Native Americans in various western states, and written innumerable publications on voting rights issues.

Joseph E. Sandler is a member of the firm of Sandler, Reiff & Young, P.C., in Washington, D.C., concentrating in campaign finance and election law matters, and general counsel to the Democratic National Committee. As an attorney he has handled campaign finance and election law matters for Democratic national and state party organizations, Members of Congress, candidates and campaigns. He served as general co-counsel of the Association of State Democratic Chairs, as general counsel for the Democratic Governors' Association and as counsel to several state Democratic parties.

Cathy Cox is serving her second term as Georgia's Secretary of State, having first been elected in 1998. In 2002 she earned re-election with over 61 percent of the vote, winning 146 out of 159 counties. Because of Secretary Cox's efforts Georgia has become a national leader in election reform. Her initiative made Georgia the first state in America to deploy a modern, uniform electronic voting system in every county

Karen Lynn-Dyson/EAC/GOV

12/13/2005 01:41 PM

To Adam Ambrogi/EAC/GOV@EAC, Amie J.  
Sherrill/EAC/GOV@EAC, Sheila A. Banks/EAC/GOV@EAC,  
Eileen L. Collver/EAC/GOV@EAC

cc

bcc

Subject Fw: November's Progress Report

Eagleton's latest monthly report for your Commissioner's review.

K

Karen Lynn-Dyson  
Research Manager  
U.S. Election Assistance Commission  
1225 New York Avenue , NW Suite 1100  
Washington, DC 20005  
tel:202-566-3123

— Forwarded by Karen Lynn-Dyson/EAC/GOV on 12/12/2005 01:39 PM —



"Johanna Dobrich"  
<jdobrich@eden.rutgers.edu>

12/13/2005 12:29 PM

To klynndyson@eac.gov

cc "tim.vercellotti@rutgers.edu" <tim.vercellotti@rutgers.edu>,  
davander@eden.rutgers.edu, dlinky@rci.rutgers.edu,  
ireed@rutgers.edu, joharris@eden.rutgers.edu,  
john.weingart@rutgers.edu, tokaji.1@osu.edu,  
foley.33@osu.edu, lauracw@columbus.rr.com,

Subject [REDACTED] November's Progress Report

Dear Ms. Karen Lynn-Dyson:

Attached please find the Eagleton/Moritz Progress Report for the month of  
November.

Please direct any questions about this report to Tom O'Neill  
[REDACTED]

Sincerely,

Johanna Dobrich

--

Johanna Dobrich  
jdobrich@eden.rutgers.edu



ProgressReport\_ NOVEMBER 2005\_ Eagleton Institute of Politics.doc

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# EAGLETON INSTITUTE OF POLITICS

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***Contract to Provide Research Assistance to the EAC For  
the Development of Voluntary Guidance on Provisional  
Voting and Voter Identification Procedures***

**MONTHLY PROGRESS REPORT  
November 2005**

**For  
UNITED STATES ELECTION ASSISTANCE COMMISSION**  
1225 New York Avenue N.W., Suite - 1100  
Washington, DC 20005

December 15, 2005

**Prepared by:**  
Eagleton Institute of Politics  
Rutgers, The State University of New Jersey  
191 Ryders Lane  
New Brunswick, NJ 08901-8557

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## OUTLINE

- Introduction
- Provisional Voting
  - Task 3.7
  - Task 3.8
- Voter Identification Requirements
  - Task 3.10
  - Task 3.11
- Project Management
  - Task 3.1
- Financial Report

## INTRODUCTION

This report describes our progress from November 1 through November 30, 2005. It includes brief descriptions of key tasks; progress made; challenges encountered or anticipated; milestones reached; and projections for work to be completed in the coming month.

In November we completed and submitted our Provisional Voting analysis paper, including recommendations to the EAC for best practices. These policy prescriptions are based on our research and the comments of the Peer Review Group on that research. We completed a careful review of our data to reconcile it with other sources and identify the latest, most reliable information to use in the analysis. The importance of this demanding effort was described in October's Progress Report. We continue to await the EAC's comments on that final draft.

Also in November we revised the schedule for the project in light of the additional time that has been needed for review of earlier drafts by the EAC and the late completion of the Election Day Study. We made a written request to the EAC for a no-cost extension of the contract through the end of February which we understand is likely to be approved before Christmas.

Since the submission of our Provisional Voting report to the EAC on November 28, 2005, our efforts have been entirely aimed at the completion of the voter identification research. We have been advised that EAC will take several weeks to review and react to our final draft on provisional voting. As we await a January meeting on that topic, we are moving ahead

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quickly on the statistical analysis of voter identification data and summarizing the legal research that was completed earlier.

This Monthly Progress Report is divided into 3 sections: Provisional Voting, Voter Identification Requirements, and Project Management. Each section references specific tasks described in paragraph 3 of the contract. The Financial Report will be sent separately by the Rutgers Division of Grant and Contract Accounting.

Please direct questions or comments about this report to [REDACTED] by [REDACTED]

#### PROVISIONAL VOTING

Tasks 3.4 – 3.9 in our contract relate to Provisional Voting. Task 3.4 was completed in August, and Tasks 3.5 and 3.6 were completed in November.

#### **Task 3.6: Prepare preliminary draft guidance document.**

The report and recommendations which were sent to the EAC on November 28, 2005 recommends against the adoption of a guidance document per se and advises that the EAC adopt its recommendations as best practices. That recommendation followed agreement by the EAC with that course of action. The submission of that report and recommendations, however, constitutes the document required under this task. Before proceeding to Task 3.7 (revise the guidance document for publication) or 3.8 (arrange a public hearing on the draft guidance), we await the EAC's decision on how to proceed.

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## VOTER IDENTIFICATION REQUIREMENTS

The contract lists 7 tasks (3.10 – 3.16) related to Voter Identification Requirements. The research on Voter ID requirements is proceeding concurrently with our work on the experience of Provisional Voting, and is the principal focus of our research at this time.

### Task 3.10: Legislation, regulations, and litigation

The research team at the Moritz College of Law has the lead responsibility for the collection and analysis of legislation, administrative procedures and litigation with regard to Voter Identification Requirements. This collection of material is nearing completion. It will constitute the compendium of legislation, administrative regulations, and case law called for under this task.

**Description:** The Moritz team has compiled statutes on Voter Identification, and will provide a summarized analysis of this research to the project team for review.

**Progress:** The 50 state (plus District of Columbia) chart has been completed, the voter identification statutes have been collected for all states and D.C., and summaries of the existing voter identification statutes have been written for all states and D.C. Moritz has completed its review of voter identification litigation. Moritz and Eagleton have worked together to review the research, clarify the categorization of that research on our charts, and reconcile the data developed in our two different research techniques categorizations.

**Challenges:** The biggest challenge facing the reconciliation process of research findings, descriptions and categorizations is that it is being done by two different teams (Moritz and Eagleton) who rely on different primary source materials. Despite the necessity this has created to reconcile conflicting data from time to time, the collaboration has also been very beneficial because it has made our research efforts more rigorous.

**Work Plan:** During December we will conclude our reconciliation and continue analysis of voter identification research, including an analysis of the most important issues and trends in voter identification litigation.

### SUPPLEMENTS TO LEGAL ANALYSIS

To supplement the legal analysis, the Eagleton team is undertaking two research efforts: First, compiling information on the debate over voter ID in the states; and second, estimating the effect on turnout of different voter ID regimes. Tracking the continuing political debate over voter identification reveals that the relatively narrow HAVA requirements for voter identification have apparently sparked in many states a broader concern and a sharp political debate over rigorous identification requirements for all voters. The research follows these developments both to monitor possible secondary effects of HAVA on voter ID, and to provide a rich collection of alternative approaches for consideration.

During the month of November, we developed narratives to establish how laws were passed, looking at when they were proposed and when they were eventually enacted. In the upcoming month, Eagleton will examine voter registration forms across the states to see what forms of identification are requested from mail-in registrants. The difficulty will be determining the 2004 status of the states.

### **VOTER ID AND TURNOUT ANALYSIS**

Now under way is a statistical analysis to gauge the effect of a state's voter ID regime on turnout, especially turnout by minority and elderly voters.

**Description:** We have created a database and gathered statistics on the effects of state-level voter identification requirements on voter turnout at the county-level in the 2004 election. In November, we have analyzed both aggregate- and individual-level data to determine whether there is any relationship between voter turnout and the various forms of voter identification states require.

**Progress:** Analysis is under way for two data sets: County-level data that includes registration and turnout rates for 2000 and 2004, as well as Census measures and indicators of the type of voter identification requirements that were in existence at the time of the 2004 presidential election. The second data set consists of the voter supplement to the November 2004 Current Population Survey. This data set allows for testing of the same hypotheses at the individual level. Preliminary findings from the aggregate data set suggest that voter ID requirements have their greatest effect at the registration stage, as opposed to the turnout stage. This is a first cut at the data, however, and we will be adding a number of control variables to the analysis to see if the relationship holds.

**Challenges:** These analyses use hierarchical linear modeling. Because voter identification requirements vary by state, one must pay special attention to other, unseen state-level influences on the data. The models are difficult to run and interpret, so the analyses are time-consuming.

**Work Plan:** The statistical analyses will continue during the month of December, and a draft of the findings is anticipated by the end of the month.

### **PROJECT MANAGEMENT**

#### **PEER REVIEW GROUP**

**Description:** A feature of our proposal was the creation of a Peer Review Group (PRG). It reviews our research and methodology and provides valuable feedback and suggestions for the direction of our work.

**Progress:** During the month of November, Eagleton contacted the PRG Members on two occasions. First, all members received the final draft provisional voting report that was submitted to the EAC. Further comments are welcome but not expected from the PRG. Second, we have asked PRG members to reserve two dates in mid-January for potential conference call sessions to review the voter identification report.

**Challenges:** No new challenges were encountered during November.

### COORDINATION AND INFORMATION MANAGEMENT

Collecting and merging information and data from myriad sources is a demanding requirement of this research. We have developed two principal mechanisms to facilitate the analysis of the material collected or created in the project: an information system and an internal website for easy access to drafts and reports.

#### INFORMATION SYSTEM

**Description:** The statutory data and reports prepared by the Moritz College of Law is being merged with the political and procedural data and analysis prepared by the Eagleton Institute of Politics to provide a cohesive final product to the EAC, which will include a compendium of case law and statutes regarding Provisional Voting and voter identification.

**Progress:** At this point in the research process, many documents are complete after a lengthy process of circulating drafts among team members. We have reorganized our system by separating final drafts from earlier versions of documents, discarding dated files contained in the Information System, and updating the system as a whole. Upon their completion, new documents continue to be added.

**Projections:** The entire project team continues to use the Information System which contains the above referenced research, in working toward the preparation for our final reports to the EAC.

#### INTRANET

**Description:** All project team members have signed on to the Intranet site, and regularly post drafts, completed materials and spreadsheets online for internal review. The Intranet facilitates the exchange of information and collaboration among project participants.

### FINANCIAL REPORT

The financial reporting for this project is supervised and prepared by the Division of Grant and Contract Accounting (DGCA) at Rutgers. Financial reporting on grant accounts is limited to actual expenses that have been incurred during the reporting period. Our contact at DGCA is: Constance Bornheimer, (732) 932-0165, EXT. 2235.

A detail of expenses incurred from project November 1- November 30, 2005, will be sent under separate cover to: Ms. Dianna Scott, Administrative Officer at the EAC.

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Bert A. Benavides/EAC/GOV  
08/21/2006 05:09 PM

To PDegregorio@eac.gov, Donetta L. Davidson/EAC/GOV,  
Gracia Hillman/EAC/GOV, Thomas R.  
Wilkey/EAC/GOV@EAC, Juliet E.  
cc Edgardo Cortes/EAC/GOV@EAC, Amie J.  
Sherrill/EAC/GOV, Sheila A. Banks/EAC/GOV, Elieen L.  
Collver/EAC/GOV@EAC, Adam Ambrogio/EAC/GOV,  
bcc

Subject Commissioners' Staff Briefing for 8-24-06

Commissioners' Staff Briefing: Thursday, 8-24-06  
9:30 AM - 11:30 AM EST, Small Conference Room

- Commissioners DeGregorio, Davidson and Hillman will participate.

- |   |  |
|---|--|
| 1. CA Appeal (EC / MS)                    | Matls to be distributed by COB 8-02-06 |
| 2. Vendor Responses (BH)                  | Matls to be distributed by COB 8-22-06 |
| 3. Indirect Cost Response Policy (MS)     | Matls to be distributed by COB 8-22-06 |
| 4. Eagleton Update (KLD)                  | Matls to be distributed by COB 8-22-04 |
| 5. Gov Works Update (KLD)                 | No materials                           |
| 6. Addition to NAS Contract (TW/KLD)      | No materials                           |
| 7. September Public Mtg Draft Agenda (TW) | Draft Agenda attached                  |
| 8. Private Briefing (Tom/Gavin)           | No materials                           |



Public Mtg. St. Louis, MO, 9-21-06 - DRAFT AGENDA.doc

Bert A. Benavides  
Special Assistant to the Executive Director  
U. S. Elections Assistance Commission  
1225 New York Avenue, Suite 1100  
Washington, DC 20005  
202.566.3114 direct line  
202.566.3128 fax  
bbenavides@eac.gov

014299



"Daniel Tokaji"  
<tokaji.1@osu.edu>  
03/17/2006 01:51 PM

To aambrogi@eac.gov  
cc  
bcc  
Subject RE: Martinez ELJ Submission

Will do. I didn't have time to review the final version before it went to you guys, but will do so. The last one I read was an improvement over prior drafts.

Daniel P. Tokaji  
Assistant Professor of Law  
The Ohio State University  
Moritz College of Law  
614.292.6566  
<http://moritzlaw.osu.edu/blogs/tokaji/>

---

**From:** aambrogi@eac.gov [mailto:aambrogi@eac.gov]  
**Sent:** Friday, March 17, 2006 12:05 PM  
**To:** tokaji.1@osu.edu  
**Subject:** RE: Martinez ELJ Submission

Dan:

Also, I know we talked about this before, but I just received a draft of the Eagleton ID Provision piece. If you have comments or follow-up, pls let me know...

Thanks.

Adam

-----  
Adam D. Ambrogi  
Special Assistant to Commissioner Ray Martinez III  
U.S. Election Assistance Commission  
1225 New York Ave. NW - Suite 1100  
Washington, DC 20005  
202-566-3105

"Daniel Tokaji" <tokaji.1@osu.edu>

03/17/2006 11:21 AM

To aambrogi@eac.gov  
cc  
Subject RE: Martinez ELJ Submission

014300

Adam: Just read this and think it's perfect. Thanks to both you and the Commissioner! Dan

Daniel P. Tokaji  
Assistant Professor of Law  
The Ohio State University  
Moritz College of Law  
614.292.6566  
<http://moritzlaw.osu.edu/blogs/tokaji/>

---

**From:** aambrogi@eac.gov [mailto:aambrogi@eac.gov]  
**Sent:** Thursday, March 16, 2006 6:43 PM  
**To:** tokaji.1@osu.edu; lowenstein@law.ucla.edu; mathews@law.ucla.edu; Rick.Hasen@lls.edu  
**Cc:** rmartinez@eac.gov  
**Subject:** Martinez ELJ Submission

Profs. Hasen, Lowenstein, and Tokaji:

Attached please find the submission of the Martinez Submission to the Election Law Journal's Mortiz Edition.

We apologize for turning in this paper late; we have unfortunately been occupied with a series of fast-moving election administration events (largely beyond our control). That said, we believe this to be a strong, well researched piece that makes an important statement, and are proud to submit it for consideration.

We are, of course, open to any edits that you may have to this papers, and as to structure, or footnoting improvements. I will provide your staff with any items that you may need to keep "on file" that are not readily available in the public for the cited material. I have taken the opportunity to do a generic law review style format, but you can obviously alter that as per ELJ's specifications. I have limited the "short cite" format-- because the piece isn't terribly long, but I have attempted to follow the Bluebook as much as possible.

Again, I know that Commissioner Martinez truly appreciates the opportunity to write for the ELJ, and the encouragement that you all have provided him to get this piece done. We welcome your comments, and will be happy to work with you on further improving this piece.

Very truly yours,  
Adam Ambrogi

-----  
Adam D. Ambrogi  
Special Assistant to Commissioner Ray Martinez III  
U.S. Election Assistance Commission  
1225 New York Ave. NW - Suite 1100  
Washington, DC 20005

014301



202-566-3105

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**U.S. ELECTION ASSISTANCE COMMISSION**

**Status Report on the  
Voting Fraud-Voter Intimidation Research  
Project**

**May 17, 2006**

**014303**

## INTRODUCTION

Section 241 of the Help America Vote Act of 2002 (HAVA) requires EAC to conduct research on election administration issues. Among the tasks listed in the statute is the development of:

- nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office [section 241(b)(6)]; and
- ways of identifying, deterring, and investigating methods of voter intimidation [section 241(b)(7)].

EAC's Board of Advisors recommended that the agency make research on these matters a high priority.

## FOCUS OF CURRENT RESEARCH

In September 2005, the Commission hired two consultants with expertise in this subject matter, Job Serebrov and Tova Wang, to:

- develop a comprehensive description of what constitutes voting fraud and voter intimidation in the context of Federal elections;
- perform background research (including Federal and State administrative and case law review), identify current activities of key government agencies, civic and advocacy organizations regarding these topics, and deliver a summary of this research and all source documentation;
- establish a project working group, in consultation with EAC, composed of key individuals and representatives of organizations knowledgeable about the topics of voting fraud and voter intimidation;
- provide the description of what constitutes voting fraud and voter intimidation and the results of the preliminary research to the working group, and convene the working group to discuss potential avenues for future EAC research on this topic; and
- produce a report to EAC summarizing the findings of the preliminary research effort and working group deliberations that includes recommendations for future research, if any;

As of the date of this report, the consultants have drafted a definition of election fraud, reviewed relevant literature and reports, interviewed persons from government and private sectors with subject matter expertise, analyzed news reports of alleged election fraud, reviewed case law, and established a project working group.

## DEFINITION OF ELECTION FRAUD

The consultants drafted a definition of election fraud that includes numerous aspects of voting fraud (including voter intimidation, which is considered a subset of voting fraud) and voter registration fraud, but excludes campaign finance violations and election administration mistakes. This draft will be discussed and probably refined by the project working group, which is scheduled to convene on May 18, 2006.

## LITERATURE REVIEW

The consultants found many reports and books that describe anecdotes and draw broad conclusions from a large array of incidents. They found little research that is truly systematic or scientific. The most systematic look at fraud appears to be the report written by Lori Minnite, entitled "Securing the Vote: An Analysis of Election Fraud". The most systematic look at voter intimidation appears to be the report by Laughlin McDonald, entitled "The New Poll Tax". The consultants found that books written about this subject all seem to have a political bias and a pre-existing agenda that makes them somewhat less valuable.

Moreover, the consultants found that reports and books make allegations but, perhaps by their nature, have little follow up. As a result, it is difficult to know when something has remained in the stage of being an allegation and gone no further, or progressed to the point of being investigated or prosecuted or in any other way proven to be valid by an independent, neutral entity. This is true, for example, with respect to allegations of voter intimidation by civil rights organizations, and, with respect to fraud, John Fund's frequently cited book, "Stealing Elections".

Consultants found that researchers agree that measuring something like the incidence of fraud and intimidation in a scientifically legitimate way is extremely difficult from a methodological perspective and would require resources beyond the means of most social and political scientists. As a result, there is much more written on this topic by advocacy groups than social scientists.

Other items of note:

- There is as much evidence, and as much concern, about structural forms of disenfranchisement as about intentional abuse of the system. These include felon disenfranchisement, poor maintenance of databases and identification requirements.
- There is tremendous disagreement about the extent to which polling place fraud, e.g. double voting, intentional felon voting, noncitizen voting, is a serious problem. On balance, more researchers find it to be less of a problem than is commonly described in the political debate; but some reports say it is a major problem, albeit hard to identify.

- There is substantial concern across the board about absentee balloting and the opportunity it presents for fraud.
- Federal law governing election fraud and intimidation is varied and complex and yet may nonetheless be insufficient or subject to too many limitations to be as effective as it might be.
- Deceptive practices, e.g. targeted flyers and phone calls providing misinformation, were a major problem in 2004.
- Voter intimidation continues to be focused on minority communities, although the American Center for Voting Rights uniquely alleges it is focused on Republicans.

### **Recommendations**

The consultants recommend that subsequent EAC research include a follow up study of allegations made in reports, books and newspaper articles. They also suggest that the research should focus on filling the gap between the lack of reports based on methodical studies by social or political scientists and the numerous, but less scientific, reports published by advocacy groups.

### **INTERVIEWS**

The consultants jointly selected experts from the public and private sector for interviews. The consultants' analysis of their discussions with these members of the legal, election official, advocacy, and academic communities follows.

### **Common Themes**

- There is virtually universal agreement that absentee ballot fraud is the biggest problem, with vote buying and registration fraud coming in after that. The vote buying often comes in the form of payment for absentee ballots, although not always. Some absentee ballot fraud is part of an organized effort; some is by individuals, who sometimes are not even aware that what they are doing is illegal. Voter registration fraud seems to take the form of people signing up with false names. Registration fraud seems to be most common where people doing the registration were paid by the signature.
- There is widespread but not unanimous agreement that there is little polling place fraud, or at least much less than is claimed, including voter impersonation, "dead" voters, noncitizen voting and felon voters. Those few who believe it occurs often enough to be a concern say that it is impossible to show the extent to which it happens, but do point to instances in the press of such incidents. Most people believe that false registration forms have not resulted in polling place fraud,

although it may create the perception that vote fraud is possible. Those who believe there is more polling place fraud than reported/investigated/prosecuted believe that registration fraud does lead to fraudulent votes. Jason Torchinsky from the American Center for Voting Rights is the only interviewee who believes that polling place fraud is widespread and among the most significant problems in the system.

- Abuse of challenger laws and abusive challengers seem to be the biggest intimidation/suppression concerns, and many of those interviewed assert that the new identification requirements are the modern version of voter intimidation and suppression. However there is evidence of some continued outright intimidation and suppression, especially in some Native American communities. A number of people also raise the problem of poll workers engaging in harassment of minority voters. Other activities commonly raised were the issue of polling places being moved at the last moment, unequal distribution of voting machines, videotaping of voters at the polls, and targeted misinformation campaigns.
- Several people indicate that, for various reasons, DOJ is bringing fewer voter intimidation and suppression cases now, and has increased its focus on matters such as noncitizen voting, double voting, and felon voting. Interviews with DOJ personnel indicate that the Voting Section, Civil Rights Division, focuses on systemic patterns of malfeasance in this area. While the Election Crimes Branch, Public Integrity Section, continues to maintain an aggressive pursuit of systematic schemes to corrupt the electoral process (including voter suppression), it also has increased prosecutions of individual instances of felon, alien, and double voting.
- The problem of badly kept voter registration lists, with both ineligible voters remaining on the rolls and eligible voters being taken off, remains a common concern. A few people are also troubled by voters being on registration lists in two states. They said that there was no evidence that this had led to double voting, but it opens the door to the possibility. There is great hope that full implementation of the new requirements of HAVA – done well, a major caveat – will reduce this problem dramatically.

#### **Common Recommendations:**

- Many of those interviewed recommend better poll worker training as the best way to improve the process; a few also recommended longer voting times or voting on days other than election day (such as weekends) but fewer polling places so only the best poll workers would be employed.
- Many interviewed support stronger criminal laws and increased enforcement of existing laws with respect to both fraud and intimidation. Advocates from across the spectrum expressed frustration with the failure of the Department of Justice to pursue complaints.

- With respect to DOJ's Voting Section, Civil Rights Division, John Tanner indicated that fewer cases are being brought because fewer are warranted – it has become increasingly difficult to know when allegations of intimidation and suppression are credible since it depends on one's definition of intimidation, and because both parties are doing it. Moreover prior enforcement of the laws has now changed the entire landscape – race based problems are rare now. Although challenges based on race and unequal implementation of identification rules would be actionable, Mr. Tanner was unaware of such situations actually occurring and his office has not pursued any such cases.
- Craig Donsanto of DOJ's Election Crimes Branch, Public Integrity Section, says that while the number of election fraud related complaints have not gone up since 2002, nor has the proportion of legitimate to illegitimate claims of fraud, the number of cases DOJ is investigating and the number of indictments his office is pursuing are both up dramatically. Since 2002, in addition to pursuing systematic election corruption schemes, DOJ has brought more cases against alien voters, felon voters and double voters than ever before. Mr. Donsanto would like more resources so that his agency can do more and would like to have laws that make it easier for the federal government to assume jurisdiction over voter fraud cases.
- A couple of interviewees recommend a new law that would make it easier to criminally prosecute people for intimidation even when there is not racial animus.
- Several advocate expanded monitoring of the polls, including some associated with the Department of Justice.
- Almost everyone hopes that administrators will maximize the potential of statewide voter registration databases to prevent fraud.
- Challenge laws, both with respect to pre-election day challenges and challengers at the polls, need to be revised by all states to ensure they are not used for purposes of wrongful disenfranchisement and harassment.
- Several people advocate passage of Senator Barak Obama's "deceptive practices" bill.
- There is a split on whether it would be helpful to have nonpartisan election officials – some indicated they thought even if elections officials are elected as non partisan officials, they will carry out their duties in biased ways nonetheless. However, most agree that elections officials pursuing partisan agendas are a problem that must be addressed in some fashion. Suggestions included moving election responsibilities out of the secretary of states' office; increasing transparency in the process; and enacting conflict of interest rules.

- A few recommend returning to allowing use of absentee ballots "for cause" only if it were politically feasible.
- A few recommend enacting a national identification card, including Pat Rogers, an attorney in New Mexico, and Jason Torchinsky from ACVR, who advocates the proposal in the Carter-Baker Commission Report.
- A couple of interviewees indicated the need for clear standards for the distribution of voting machines

### **NEWS ARTICLES**

Consultants conducted a Nexis search of related news articles published between January 1, 2001 and January 1, 2006. A systematic, numerical analysis of the data collected during this review is currently being prepared. What follows is an overview of these articles provided by the consultants.

#### **Absentee Ballots**

According to press reports, absentee ballots are abused in a variety of ways:

- Campaign workers, candidates and others coerce the voting choices of vulnerable populations, usually elderly voters.
- Workers for groups and individuals have attempted to vote absentee in the names of the deceased.
- Workers for groups, campaign workers and individuals have attempted to forge the names of other voters on absentee ballot requests and absentee ballots and thus vote multiple times.

It is unclear how often actual convictions result from these activities (a handful of articles indicate convictions and guilty pleas), but this is an area in which there have been a substantial number of official investigations and actual charges filed, according to news reports where such information is available. A few of the allegations became part of civil court proceedings contesting the outcome of the election.

While absentee fraud allegations turn up throughout the country, a few states have had several such cases. Especially of note are Indiana, New Jersey, South Dakota, and most particularly, Texas. Interestingly, there were no articles regarding Oregon, where the entire system is vote by mail.



## **Voter Registration Fraud**

According to press reports, the following types of allegations of voter registration fraud are most common:

- Registering in the name of dead people;
- Fake names and other information on voter registration forms;
- Illegitimate addresses used on voter registration forms;
- Voters being tricked into registering for a particular party under false pretenses; and
- Destruction of voter registration forms depending on the party the voter registered with.

There was only one self evident instance of a noncitizen registering to vote. Many of the instances reported included official investigations and charges filed, but few actual convictions, at least from the news reporting. There have been multiple reports of registration fraud in California, Colorado, Florida, Missouri, New York, North Carolina, Ohio, South Dakota, and Wisconsin.

## **Voter Intimidation and Suppression**

This is the area which had the most articles, in part because there were so many allegations of intimidation and suppression during the 2004 election. Most of these remained allegations and no criminal investigation or prosecution ensued. Some of the cases did end up in civil litigation.

This is not to say that these alleged activities were confined to 2004 – there were several allegations made during every year studied. Most notable were the high number of allegations of voter intimidation and harassment reported during the 2003 Philadelphia mayoral race.

A very high number of the articles were about the issue of challenges to voters' registration status and challengers at the polling places. There were many allegations that planned challenge activities were targeted at minority communities. Some of the challenges were concentrated in immigrant communities.

However, the tactics alleged varied greatly. The types of activities discussed also include the following:

- Photographing or videotaping voters coming out of polling places;
- Improper demands for identification;

- Poll watchers harassing voters;
- Poll workers being hostile to or aggressively challenging voters;
- Disproportionate police presence;
- Poll watchers wearing clothes with messages that seemed intended to intimidate; and
- Insufficient voting machines and unmanageably long lines.

Although the incidents reported on occurred everywhere, not surprisingly, many came from "battleground" states. There were several such reports out of Florida, Ohio, and Pennsylvania.

### **"Dead Voters and Multiple Voting"**

There were a high number of articles about people voting in the names of the dead and voting more than once. Many of these articles were marked by allegations of big numbers of people committing these frauds, and relatively few of these allegations turning out to be accurate according to investigations by the newspapers themselves, elections officials, and criminal investigators. Often the problem turned out to be a result of administrative error, poll workers mis-marking voter lists, a flawed registration list and/or errors made in the attempt to match names of voters on the list with the names of the people who voted. In a good number of cases, there were allegations that charges of double voting by political leaders were an effort to scare people away from the voting process.

Nonetheless there were a few cases of people actually being charged and/or convicted for these kinds of activities. Most of the cases involved a person voting both by absentee ballot and in person. A few instances involved people voting both during early voting and on Election Day, which calls into question the proper marking and maintenance of the voting lists. In many instances, the person charged claimed not to have voted twice on purpose. A very small handful of cases involved a voter voting in more than one county and there was one substantiated case involving a person voting in more than one state. Other instances in which such efforts were alleged were disproved by officials.

In the case of voting in the name of a dead person, the problem lay in the voter registration list not being properly maintained, i.e. the person was still on the registration list as eligible to vote, and a person took criminal advantage of that. In total, the San Francisco Chronicle found five such cases in March 2004; the AP cited a newspaper analysis of five such persons in an Indiana primary in May 2004; and a senate committee found two people to have voted in the names of the dead in 2005.

As usual, there were a disproportionate number of such articles coming out of Florida. Notably, there were three articles out of Oregon, which has one hundred percent vote-by-mail.

### **Vote Buying**

There were a surprising number of articles about vote buying cases. A few of these instances involved long-time investigations concentrated in three states (Illinois, Kentucky, and West Virginia). There were more official investigations, indictments and convictions/pleas in this area.

### **Deceptive Practices**

In 2004 there were numerous reports of intentional disinformation about voting eligibility and the voting process meant to confuse voters about their rights and when and where to vote. Misinformation came in the form of flyers, phone calls, letters, and even people going door to door. Many of the efforts were reportedly targeted at minority communities. A disproportionate number of them came from key battleground states, particularly Florida, Ohio, and Pennsylvania. From the news reports found, only one of these instances was officially investigated, the case in Oregon involving the destruction of completed voter registration applications. There were no reports of prosecutions or any other legal proceeding.

### **Non-citizen Voting**

There were surprisingly few articles regarding noncitizen registration and voting – just seven all together, in seven different states across the country. They were also evenly split between allegations of noncitizens registering and noncitizens voting. In one case, charges were filed against ten individuals. In another case, a judge in a civil suit found there was illegal noncitizen voting. Three instances prompted official investigations. Two cases, from this Nexis search, remained just allegations of noncitizen voting.

### **Felon Voting**

Although there were only thirteen cases of felon voting, some of them involved large numbers of voters. Most notably, of course, are the cases that came to light in the Washington gubernatorial election contest (see Washington summary) and in Wisconsin (see Wisconsin summary). In several states, the main problem was the large number of ineligible felons that remained on the voting list.

### **Election Official Fraud**

In most of the cases in which fraud by elections officials is suspected or alleged, it is difficult to determine whether it is incompetence or a crime. There are several cases of ballots gone missing, ballots unaccounted for and ballots ending up in a worker's possession. In two cases workers were said to have changed peoples' votes. The one

instance in which widespread ballot box stuffing by elections workers was alleged was in Washington State. The judge in the civil trial of that election contest did not find that elections workers had committed fraud. Four of the cases are from Texas.

### **Recommendation**

The consultants recommend that subsequent EAC research should include a Nexis search that specifically attempts to follow up on the cases for which no resolution is evident from this particular initial search.

## **CASE LAW RESEARCH**

After reviewing over 40,000 cases from 2000 to the present, the majority of which came from appeals courts, the consultants found comparatively few applicable to this study. Of those that were applicable, the consultants found that no apparent thematic pattern emerges. However, it appears to them that the greatest areas of fraud and intimidation have shifted from past patterns of stealing votes to present problems with voter registration, voter identification, the proper delivery and counting of absentee and overseas ballots, provisional voting, vote buying, and challenges to felon eligibility.

### **Recommendation**

Because so few cases provided a picture of these current problems, consultants suggest that subsequent EAC research include a review of state trial-level decisions.

## **PROJECT WORKING GROUP**

Consultants and EAC worked together to select members for the Voting Fraud-Voter Intimidation Working Group that included election officials and representatives of advocacy groups and the legal community who have an interest and expertise in the subject matter. (See Attachment A for a list of members.) The working group is scheduled to convene at EAC offices on May 18, 2006 to consider the results of the preliminary research and to offer ideas for future EAC activities concerning this subject.

## **FINAL REPORT**

After convening the project working group, the consultants will draft a final report summarizing the results of their research and the working group deliberations. This report will include recommendations for future EAC research related to this subject matter. The draft report will be reviewed by EAC and, after obtaining any clarifications or corrections deemed necessary, will be made available to the EAC Standards Board and EAC Board of Advisors for review and comment. Following this, a final report will be prepared.

**Attachment A**

**Voting Fraud-Voter Intimidation Project Working Group**

**The Honorable Todd Rokita**

Indiana Secretary of State

Member, EAC Standards Board and the Executive Board of the Standards Board

**Kathy Rogers**

Georgia Director of Elections, Office of the Secretary of State

Member, EAC Standards Board

**J.R. Perez**

Guadalupe County Elections Administrator, TX

**Barbara Arnwine**

Executive Director, Lawyers Committee for Civil Rights Under Law

Leader of Election Protection Coalition

*(To be represented at May 18, 2006 meeting by Jon M. Greenbaum, Director of the Voting Rights Project for the Lawyers Committee for Civil Rights Under Law)*

**Robert Bauer**

Chair of the Political Law Practice at the law firm of Perkins Coie, DC

National Counsel for Voter Protection, Democratic National Committee

**Benjamin L. Ginsberg**

Partner, Patton Boggs LLP

Counsel to national Republican campaign committees and Republican candidates

**Mark (Thor) Hearne II**

Partner-Member, Lathrop & Gage, St Louis, MO

National Counsel to the American Center for Voting Rights

**Barry Weinberg**

Former Deputy Chief and Acting Chief, Voting Section, Civil Rights Division, U.S.

Department of Justice

*EAC Invited Technical Advisor:*

**Craig Donsanto**

Director, Election Crimes Branch, U.S. Department of Justice

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U.S. ELECTION ASSISTANCE COMMISSION

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STANDARDS BOARD MEETING

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7

Taken at the Hamilton Crown Plaza Hotel

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1001 14th Street, Northwest

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Washington, D.C.

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Taken on the date of:

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Tuesday, May 23, 2006

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21 Start time: 10:00 o'clock, a.m.

22 Taken before: Pauline Jansen, court reporter

□

1 AGENDA:

2 Brief Welcoming Remarks

Commissioner Ray Martinez

3 EAC Staff Presentations:

4 Legal on-line Information

5 Clearinghouse

Julie Hodgkins

6 Design for Democracy

Karen Lynn-Dyson

052306

7 Public Access Portals Edgardo Cortes

8 Spanish and Asian Language

9 Working Groups Edgardo Cortes

10 Standards Board Plenary Session: Peggy Nighswonger

11 1) Adoption pf Parliamentary

12 2) Adoption of Agenda

13 3) Review of Meeting

14 4) Review of Present Standards Board Bylaws

15 5) Briefing on Re-adoption of Standards Board Charter

16 6) Election of Executive Board Vacancy

17 DISCUSSION DRAFT REPORT ON PROVISIONAL VOTING

18 Presenters: Thomas O'Neill and Edward Foley

19 DISCUSSION: RESEARCH ON POLL WORKER RECRUITMENT,

20 TRAINING AND RETENTION

21 Presenters: Jennifer Collins-Foley and Abby Horn

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3

1 P-R-O-C-E-E-D-I-N-G-S

2 MR. MARTINEZ: Good afternoon, everybody.

3 Please continue with your lunch. We are going to get

4 started with the program. And what I am going to do for

5 a quick two or three minutes is just to lay the

6 groundwork if you will and try to let you all know what

7 we are going to attempt to accomplish over the next

8 couple of days. And give you an idea as to what issues

9 we hope to put in front of you et. Cetera.

10 Again I am Ray Martinez. I am a Commissioner

11 with the U.S. Elections Assistance Commission. I do

12 want you to recognize my esteemed colleague the former

13 Secretary of State of the great State of Colorado and

14 now Commissioner with EAC, Betty Davidson. Madame

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15 Commissioner if you will stand up ( Applause).

16           what we hope to accomplish-- well, we are  
17 here to discuss and get advice, the EAC, to get advice  
18 from our Statutory Advisory Boards. We have two main  
19 Statutory Advisory Boards created by(inaudible) which  
20 is our government statute. One is the Board of Advisors  
21 which is meeting up on the second floor and is  
22 conducting concurrent meetings doing and hearing

□

4

1 exactly the same issues that you all will be hearing  
2 about as well.

3           we have a presenter upstairs and as soon as  
4 they are done we switch places and we will run  
5 concurrent agenda with the Board of Advisors up stairs.

6           And of course our second important Advisory  
7 Board committee is this great body right here and that  
8 is the 110 Member Standards Board.

9           what we have done in preparing your agenda  
10 for this particular meeting is different from what we  
11 did in Denver last September, In Denver last September  
12 we had a very important issue that we had to put before  
13 our two Statutory Advisory Boards and the Board of  
14 Advisors met separately for that meeting in a different  
15 location.

16           what we did is focus on the voluntary voting  
17 system guidelines lines back in Denver back in  
18 september of last year. We broke up into break out  
19 sessions on the various aspects of the BBSG, security,



20 accessibility human factors et cetera. We had a very  
21 productive meeting about the voluntary voting system  
22 guidelines.

□

5

1           For this particular meeting what you have is  
2 an agenda full of Commissions and working EAC research  
3 projects. Just about our full research agenda will be  
4 presented to you throughout the next two days. And the  
5 reason for us to do that is because the EAC-- a very  
6 important function of the EAC in addition to working as  
7 your full partner in implementing the various  
8 requirements in HAVA will also be a national clearing  
9 house for best practices on election administration.  
10 And to be able to fully play and fulfill that role as  
11 an agency it is incumbent upon us to commission  
12 objective and professional and sound research so we can  
13 fully inform our partners in the election community and  
14 in the advocacy community, all our stake holders as to  
15 what we find our best practices in election  
16 administration.

17           So you will hear a series of presentations  
18 that begin almost immediately as soon as I get off the  
19 podium here. They will start to tell you here are the  
20 things that we are working. And the goal that we want  
21 to try to accomplish in the next day and a half is to  
22 get your candid advice of what we are working on. I

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6

1 strongly encourage as much feed back questions whether  
2 they are positive or challenging. We want to get a  
3 sense of direction on the projects we are going to be  
4 presenting to you over the next day and a half. So we  
5 want to encourage your candid interaction as you hear  
6 these presentations and we need to get fully informed  
7 as to the direction that we are headed.

8           So the goal of this meeting is to give you a  
9 full briefing of all of our research projects we are  
10 working on. If you look at the agenda you will see at  
11 the end of the next day and a half, meaning tomorrow  
12 afternoon, you will have a two block. And that block  
13 can be extended even further if necessary for a plenary  
14 session time were you will be able to talk among  
15 yourselves as members of the Standards Board and to  
16 discuss what you heard from the EAC and if necessary  
17 if it is so desired pass resolutions and speak formally  
18 as a Standards Board, as an Advisory Board as to your  
19 collective opinion about the work that we are doing  
20 here.

21           We truly value the feed back we get from all  
22 of you. We don't just meet in a vacuum. I see so many

□

7

1 faces out in this room that we at the EAC call on just  
2 about every day for advice and for input.

3           So it is a very unique situation for us to  
4 have so many of you that we call upon almost daily to  
5 have you all collectively in the same room and to be  
6 able to draw from your vast experience and expertise  
7 for the next day and a half. We feel very fortunate to  
8 have you here. We are very thankful that you have  
9 traveled a great distance for many of you to spend the  
10 next day and a half with us. Thank you in advance.

11           So with that let me say I do need to  
12 announce anybody that needs to have an interpreter or  
13 signage can come and sit in the front row or we will  
14 make better accommodations for you to have a better  
15 view of the interpreter. This meeting is open to the  
16 public as have all of our Standards Board meetings have  
17 been. So there is a section in the back where non  
18 Standards Board Members are present. However Q and A  
19 and actual interaction is limited to the Standards  
20 Board members who are present. The members of the  
21 public who are here may observe but they may not ask  
22 questions or engage in any of the discussions or

1 presentations. It is strictly for the members of the  
2 Standards Board.

3           After we do some quick presentations here for  
4 the remainder of our lunch hour this meeting will be  
5 turned over the members of your executive board,  
6 meaning your acting chair, Peggy Nighswonger and her  
7 colleagues on the Executive Board, will then come up to  
8 the head table and begin to work you through the agenda  
9 and solicit your feed back.

10           So with that I will go ahead and ask our  
11 first presenter, our current General Counsel, Julie  
12 Thompson Hodgkins to come up and give us a brief  
13 presentation on our Legal Resources web page. After  
14 that we will have three more presentations. And then we  
15 will take a break and go into your first Plenary  
16 Session. Julie, if you will come up, please.

17           MS. THOMPSON-HODGKINS: Thank you Mr. Martinez  
18 and welcome everyone to Washington D.C. I am so pleased  
19 to be the first presenter. To be able to talk about,  
20 well, what is a small project for EAC, but one that I  
21 hope will bring a lot of value to the election.

22           Just to briefly give you a little insight

1 into this project I remember the days back when I was a  
2 State Election Administrator being general counsel for  
3 the Department of Elections in Louisiana thinking it  
4 really would be nice to have one source to be able to  
5 go to take a look at all of the laws, all of the  
6 regulations, all of the cases country wide that dealt  
7 with elections.

8 I remember those days when you got frantic  
9 calls from the Legislature wanting to know how another  
10 state dealt with provisional voting or casting ballots  
11 or absentee voting or what have you and wishing I had a  
12 resource.

13 Actually at the Denver meeting I took a  
14 little poll of a few of you asking what you would think  
15 about EAC putting together this kind of resource. And  
16 it got some support. I brought it to the Commissioners  
17 and said, you know, hey what do you think about this?  
18 And they thought it was a good idea to.

19 So what we are doing is putting together a  
20 website to provide access for all of you, all the  
21 members of the public, to legal materials related to  
22 elections. It will provide you with up to date

□

10

1 information, current statutes, current cases, and in a  
2 format that is user friendly.

3 We decided to start this project with a

4 rather simple focus and that is State and Federal  
 5 elections. Anything from State Constitutions, Federal  
 6 Constitutions, Federal law, such as Help America Vote  
 7 Act, and NVRA, The Voting Rights Act. Certainly the  
 8 Voting Accessibility for the Elderly and Handicapped,  
 9 ADA and the rehab act. Anything that we could think of  
 10 either in the Federal or State arena in terms of  
 11 Legislation that would impact the elections process.

12           We are also going to have State Statutes.  
 13 Constitutions, Administrative Rules and Regs. They will  
 14 be categorized by state and by topical area. So if  
 15 you're interested in knowing how California deals with  
 16 provisional voting you can go to California and take a  
 17 look at Provisional Voting Statutes or cases. The same  
 18 thing with voting equipment and various other  
 19 categories.

20           However if you are looking for a broader  
 21 search you will also be able to key in the terms that  
 22 you're interested in finding and take a look across all

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11

1 of the States to see a sort of panorama of how that  
 2 particular topic is dealt with.

3           As far as the cases are concerned we asked  
 4 our contractor to summarize the cases for you at the  
 5 beginning so that you didn't have to read the whole

6 case in order to determine whether or not it was  
7 something that really applied to your particular  
8 situation. You will also have a link to the full text  
9 of that decision. We started with a narrow focus and  
10 that is State and Federal elections particularly Help  
11 America Vote Act and the NVRA, and those issues which  
12 would be the most important to you guys as you are  
13 implementing HAVA.

14 As far as the time line is concerned on this  
15 project our contractor is just about finished  
16 identifying all of the resources that we need to be  
17 contained in the data base. They are in the process of  
18 summarizing those cases. And we will be populating that  
19 data base.

20 I am thrilled actually today to be able to  
21 give you a little bit of a preview of the data base. I  
22 hope you guys can see this. The text is a little small.

□

12

1 But these are some screen shots that we have. And this  
2 a look into the actual key word search where you would  
3 be able to enter in for instance: "Cast Ballot". And  
4 pull up cases, statutes, regulations that deal with how  
5 various different states are casting ballots. You can  
6 also of course, as I told you before, search by  
7 category or by state. So there will be a browsing  
8 function there that you can go to those into a drop

9 down menu and choose from various different sources.

10 And this is sort of an example of what the  
11 results page would look like. The information that you  
12 will be needing.

13 We are very excited about this. I hope that  
14 you guys share the excitement and hope this will be a  
15 great resource for you. This is another little screen  
16 shot here of browsing a particular record for a single  
17 state.

18 If you have any questions, comments anything  
19 that I can answer right now I would be happy to take  
20 questions.

21 MS. LYNN BAILEY: (Georgia) when do you  
22 anticipate that project will be available for the

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13

1 public.

2 MS. THOMPSON-HODGKINS: I believe the tract  
3 that the contractor is on right now we should have this  
4 up by mid July. They are well into identifying all of  
5 the resources. There are quite a number of cases that  
6 they have summarized. But we try to ask them to do that  
7 on a priority bases, the newest cases first so that we  
8 can get that information out to you in that time frame.

9 BRAD CLARK: (California) will this be  
10 available to a regular EAC website? Will there be a be



11 a link to that legal resources.

12 MS. THOMPSON-HODGKINS: That is correct. There  
13 will be a link to Legal Resources Clearing House or  
14 Legal resources. You will be able to just go get that  
15 right off the EAC page.

16 The court Reporter has asked me to tell those  
17 who are speaking to identify yourselves so we will know  
18 who is speaking. Thank you so much for this opportunity  
19 to come and talk to you about this. I will be around  
20 for the next day and a half. So if any other questions  
21 come up with regard to Legal Resource Clearing House or  
22 in regard to anything else please do not hesitate to

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14

1 come and find me.

2 MR. MARTINEZ: I think Julie actually makes a  
3 good point at the end. And that is our staff will be  
4 around for the next couple of days. The presentations  
5 that you're hearing today at lunch are going to be kind  
6 of rushed because we are trying to get you as much  
7 information as we can. And we are starting with this  
8 lunch hour. But after the lunch hour the presentations  
9 that you will have will be issue specific. You will not  
10 not have four in a one hour block of time. There will  
11 be a time when you will get a ten or fifteen minute  
12 presentation with about thirty to forty minutes to ask  
13 questions on a particular issue.

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14               So these are the ones we thought we could do  
15 rather quickly. But still even so we encourage you to  
16 ask to ask questions even if it means we need to  
17 readjust our agenda this afternoon.

18               Okay. Our next presenter-- I am going to ask  
19 Karen Lynn-Dyson who is our research manager. Karen  
20 manages all of our research agenda. And Karen, why  
21 don't you come on up to the microphone if you don't  
22 mind. And Karen will introduce our next presenter who

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15

1 will give a very a quick, brief, presentation. This  
2 project is on the work that we are doing to redesign or  
3 to offer more user friendly designs for various  
4 products that our presenter will explain to you. Karen  
5 come on up.

6               MS. KAREN LYNN-DYSON: I just want to  
7 reiterate what Commission Martinez said in terms of my  
8 availability to everyone here over the next couple of  
9 days. Am the individual responsible for oversight for  
10 all of the agencies research works and projects. I look  
11 forward very much to hearing from you all, your  
12 concerns, you issues, things you would like to see us  
13 addressing or addressing in more detail.

14               We have with us today Rick Grafe who is the  
15 CEO of the American Institute of Graphic Art. This

16 project which the Elections Assistance Commission is  
17 contracted for is one that Commissioner Martinez  
18 indicated where we are trying to provide to you all a  
19 series of best practices on ballot design and on  
20 signage. And with these best practices and these  
21 exhibits, if you will, of possibilities for approaches  
22 to ballot design and polling place signage we will take

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16

1 into consideration literacy, readability, usability  
2 alternate languages, braille, audio accessibility and  
3 ADA compliance.

4           The American Institute of Graphic Art is the  
5 professional association of design. It has some 17,000  
6 designers working in a variety of communication media.  
7 And they through their Design for Democracy which is  
8 their non profit affiliate can assist you all,  
9 government agencies, in finding national or local  
10 professional designers and researchers who can help you  
11 on a for hire basis to implement some of these designs.

12           So with that very brief introduction I am  
13 going to Mr. Grafe Korfe go ahead and describe to you  
14 all the work they have been doing for the EAC on this  
15 contract

16

17           DESIGN FOR DEMOCRACY

18 MR. RICK KORFE:

19 All right. Thank you Karen. Again I am Rick  
20 Grafe sic) I want to thank you, Karen and also  
21 Commissioner Martinez. And I think some of the comments  
22 that he made are so very critical to what we want to

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17

1 share with you. That is he talked about the importance  
2 of best practices; he talked about the importance of  
3 research; and he talked about how critical input is.  
4 And I think all of those are reflected in what we are  
5 trying to share with you today.

6 This is going to be very brief. And one of  
7 the reasons it is going to be brief is that this isn't  
8 really about you listening to me it is really about our  
9 me listening to you.

10 Our project is effective design in election  
11 administration (sic) and as Karen pointed out Sign  
12 for Democracy is an initiative for AIGA which has been  
13 around since 1999.

14 It eventually focused on clear communication  
15 and more thoughtful experiences in public sphere so we  
16 can trust in government and increase citizen  
17 participation.

18 The specific project we are working on is  
19 aimed at building expertise, or building from our  
20 expertise, experience and new research to create models

21 for optical scan electronic ballots and also for  
22 polling place signage.

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18

1 Now the exhibits we actually created are  
2 under Tab five in your binders. And I mention that  
3 because I am going to do something that is a little  
4 unusual in talking about design. And that is I am not  
5 going to show you the designs because what we really  
6 want to do is gain your input. And there is an  
7 opportunity for you to look at the work under tab five  
8 and get a sense of it. And also in a room right across  
9 the hall we have two staff people, user specialists and  
10 researchers who are there to gain your input on various  
11 of the exhibits that are over there.

12 So during the next day, well actually two  
13 days, we will have the room, again, right across the  
14 hall. There is Elizabeth Hare, our Project Director and  
15 Mary Kwan who is our experienced strategist and  
16 usability specialist strategist. And they both will be  
17 over there looking for your input on some the exhibits.  
18 The exhibits are things like this. And while they are  
19 all drafts the intention is to get your reaction so we  
20 can refine them.

21 I want to mention now a couple of things  
22 quickly about designers and try to disavow you of

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19

1 certain preconceptions about about design. What we are  
2 talking about here is not people in flip flops and long  
3 pony tails who are trying to design this stuff. And we  
4 are not talking about arrogant artists wearing all  
5 black. What we are talking about are professionals who  
6 can take an experience and define and break it down  
7 into the small pieces that make an experience, like the  
8 voting experience, like the election experience and  
9 break it up into segments. And research how people  
10 react to information and then craft a solution.

11           So what we are really talking about is a  
12 process, a designing process, a way of thinking about a  
13 problem and the election process itself.

14           We broke it down into identification,  
15 orientation, instruction, action, is the voting part,  
16 completion. And what you do is you look at the election  
17 process and say what are all the pieces and how do  
18 people relate to that.

19           And out of that what we are going to do is we  
20 are going to propose to you guidelines that respect a  
21 number of issues, that respects a number of issues. It  
22 respects HAVA compliance; it will respect need to adapt

1 materials for local applications; it will always to  
2 seek to find clarity and simplicity in what we are  
3 doing. And it will also reflect the need to respond to  
4 the technical requirements of voting equipment.

5           So right now our approach, and what happened  
6 to our project, right now our approach will deal with  
7 guidelines on the content, on what information is  
8 really needed by people at various stages.

9           You will deal with the voting system  
10 implication of course responding to the technical  
11 issues. It will deal with layout systems, the way  
12 people work through information. We know patterns that  
13 are most effective. And we will share those with you as  
14 well as issues of layout that reflect the needs of  
15 different technical systems. And also principles of  
16 design so that materials being adapted for the local  
17 level there are certain principles that you will know  
18 to follow.

19           what you see here are twelve stages in the  
20 design process. And I need to mention this again to  
21 point out that when you are dealing with a designer you  
22 shouldn't just expect them to design a ballot.

1           You should deal with designers who are  
2 actually asking you more about the process of design.  
3 And the issues that are highlighted, five and six,  
4 gather information and develop prototype ideas is a  
5 stage that we are at. With that, that is an important  
6 stage.

7           We need to understand how people need, use  
8 information. What information is needed and then you  
9 develop prototypes which are like the draft examples  
10 you will see across the hall and then you gain greater  
11 information.

12           This is one case where when we talk about  
13 testing we are not testing to figure out how well we  
14 have done. We are testing to inform what we do. So the  
15 idea here is that we have materials for you to react to  
16 and it is your reaction that is as critical as it is to  
17 what we bring to the project.

18           I know that for many dealing with this issue  
19 isn't traumatic but it is a tough one because ballots  
20 have been developed over the years and they have  
21 accommodated a huge amount of information, a huge  
22 amount of requirements that are very local. And most

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1 people in this room, and most people in most of the



2 elections systems, feel very strongly, they feel the  
3 issues we are confronting are unique. And they are  
4 concerned that all of the challenges they have already  
5 faced be accommodated in the outcome.

6           Let me assure you that that is exactly why we  
7 want to hear from you. Understanding what you bring  
8 about, what is important, is actually critical for us  
9 to be able to adapt to something that you can use  
10 effectively at the local level.

11           One of the advantages of the work we have  
12 done. One of the advantages of the work that we have  
13 done our election design project team has already  
14 worked with election officials in Cook County, Illinois  
15 and the state of Oregon. And so in terms of the  
16 testing process we have actually have not only the  
17 kinds of test that we do in order to perform research,  
18 to understand how people can best understand the issues  
19 and answer the ballot. But also we have had field  
20 testing and post election use. And we bring to the  
21 project here not only that experience but also certain  
22 things that are true of virtually any information

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1 design issue.

2           And our objective here is useful usable  
3 design. And our core team and what we bring to it,  
4 among other things, in addition to that experience, we

5 bring what we know from other research in terms of how  
6 people use information. And we know that there are  
7 certain principles that we will share with you that  
8 regardless of how your design evolves that you need to  
9 keep in mind and that is the design is not because it  
10 makes things look pretty but because it makes things  
11 useful. It makes things usable. They are effective.  
12 They are clear, they are simple.

13           These are things like using clear capital  
14 letters; not center lining type; keep the number of  
15 type variations down; understand information hierarchy;  
16 and using graphics to help illustrate points. We will  
17 share those things. And that's where we start.

18           Then we have our own panel of experts and  
19 project advisors that advise us and become part of that  
20 process of testing. Are we making the right conclusion  
21 when we are coming up with certain solutions?

22           And the next critical aspect is all of you.

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1 That's why we will be here for two days because we need  
2 to hear from you the issues that are most important to  
3 you and make sure we can accommodate them.

4           And then of course there are the voters as  
5 well. We look to them and their response in two ways.  
6 One is through putting together some test situations

7 with prototypical or typical voters in advance and also  
8 the outcomes of actual use.

9           The concept we are taking here is we want to  
10 create a design that is simple enough to address  
11 exceptional means. And by dealing with the needs at the  
12 extremes, the exceptional needs, and making something  
13 simple and clear for them we believe we will meet  
14 everyone's requirements.

15           So in this next round of testing that we do  
16 we are going to include people from 18 to 21 years of  
17 age, 65 to 80 and address the kind of issues that Karen  
18 pointed are the object of the issues and that is  
19 dealing with literacy issues, readability, usability,  
20 alternate languages, braille and audio accessibility  
21 and ADA compliance. And then in addition we will try to  
22 see what the requirements are for localization, for low

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1 experience levels and also for cultural obstacles.  
2 Ultimately again the outcome will be models that are  
3 other compliant, capable for local variability, easy to  
4 implement and sensitive to technical requirements.

5           The next stage will be some tests that we  
6 will do in the field, task based usability testing. We  
7 plan to do it on the east coast, midwest and west  
8 coast. And certainly if any of you want to be involved  
9 in this be sure to let Elizabeth or Mary know because

10 we have not selected sights yet. And the testing will  
11 be putting together, presumably, test labs and bring in  
12 volunteers to actually use the information.

13 I mention we will be in the room across the  
14 hall in the McPhearson Square Room, oh, I guess  
15 tomorrow is in the Board Room, it is not across the  
16 hall. So in the McPhearson Square Room, all day today  
17 until 6 o'clock. And tomorrow it will be in the Board  
18 Room which is also on this level Board Room one I  
19 believe from 10 a.m., to 6 p.m. And you can also  
20 respond and even if it is not responding to what you  
21 see sharing with us your concerns.

22 Now what is this? We also want to get your

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1 feed back on line. But this is one of those slides from  
2 hell. You know you try to come up with a simple  
3 solution, especially for designers who talk about  
4 simplicity. You try to come up with a simple solution  
5 and you get a URL that no one can remember. So we will  
6 skip that. We are looking for a survey monkey to do  
7 another job.

8 Nest, you can use this link on the Home page  
9 of Design for Democracy.org./participate URL there is  
10 a link of that on line survey which is going to be  
11 available through the end of the month for any of your

12 comments on any materials in Tab 5. And again: Design  
13 for Democracy.org/participate. And that will be up for  
14 ten more days, until the end of the month to gather  
15 your comments.

16           There are the names of Mary and Elizabeth who  
17 we be here the next two says seeking your input. And we  
18 certainly welcome it in any way or form you choose to  
19 get it to us. But it is critical for us to hear from  
20 all of you on this in order to accommodate your needs.  
21 Thank you.

22           MR. MARTINEZ: Any questions on this

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1 particular presentation? Okay. Great thank you.

2           It occurs to me as I was listening to that  
3 presentation that perhaps this room could have been  
4 designed a little better for our meeting. Howard is  
5 that you behind the pillar? I think so. So our  
6 apologies for columns that are blocking the view, not  
7 that you want to see us up here anyway. But hopefully  
8 you can hear us back there, Howard.

9           what we want to do next, the final  
10 presentation both of this presentations on Public  
11 Access Portals and Spanish and Asian Language Working  
12 Groups that we have assembled will be presented by  
13 Edgardo Cortes who is one of our research specialists  
14 at the EAC. He will talk to you very quickly about

15 these issues and give you a chance to ask questions.

16 I also want to say about the previous  
 17 presentation we reached out to Design for Democracy and  
 18 to pull together best practices on ballot design and  
 19 polling place signage et cetera. Based upon the input  
 20 and urging from many of you out there we actually got a  
 21 lot of feed back from, in particular, our Board of  
 22 Advisors, upstairs, that this was a useful project for

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1 us to do with a lot of positive feedback from election  
 2 officials who had worked with Design for Democracy. And  
 3 we felt they were an important group to bring in. Have  
 4 them do some templates and some best practice  
 5 documents that we could put out for your consumption to  
 6 see if you want to follow up with any of their work.  
 7 And that is why you heard that presentation.

8 okay. The following two presentations very  
 9 quickly, Edgardo Cortes with the EAC staff:

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12 PUBLIC ACCESS PORTALS & SPANISH & ASIAN  
 13 LANGUAGE WORKING GROUPS .

14

15 MR. CORTES:

16 Thank you Mr. Vice Chairman. Give me just a

17 minute to set this up.

18               Good afternoon, everyone, my name is Edgardo  
19 Cortes. I have been with EAC since late July of last  
20 year. Prior to that I used to run a National Voter  
21 Registration campaign that was funded by the government  
22 of Puerto Rico as well as did some political

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1 consulting work for a couple of campaigns around the  
2 country. Probably working with Peggy Sims dealing with  
3 all the requirement payments issues, the HAVA funding  
4 questions that come in, the College Board Approval  
5 Programs, any NVRA issues that come up and so anything  
6 I am Peggy's backup for that. So a lot of stuff you  
7 send in to us she and I work on getting your responses  
8 to.

9               First thing I am going to talk about is the  
10 Public Access Portal Project that we have been working  
11 on since last fall. We awarded a contract to  
12 Publius.org to conduct a study which will examine and  
13 create a best practices document about Public Access  
14 Portals.

15               Publius is a non partisan, non profit 501C3  
16 based out of Detroit Michigan. They have been in  
17 existence for about ten years now. And actually got  
18 their start setting up an information web site like  
19 this for the state of Michigan.

20           The methods up here is essentially from the  
21 research that is ongoing, it is kind of a color coded  
22 map as to what sorts of web sites by available by

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1 state. You can see some of them have state wide sites  
2 available. Some just have independent jurisdictions,  
3 half sites. Some are county based. And you can also see  
4 there are quite a few states that don't have anything  
5 set up so far. So those are kind of-- in terms of the  
6 research that is a visual representation of what they  
7 have looked at so far.

8           They have from September through December  
9 what they did was they went out and started doing an  
10 initial search of what web sites were out there and who  
11 is running them. And to this point they have identified  
12 and reviewed approximately 425 state, county and local  
13 web sites that provide information to voters.

14           Of those 425 what they did was, starting in  
15 January, they started a more comprehensive look at a  
16 much smaller section of those, approximately fifty.  
17 what they have done is they are going in an ah, number  
18 one, going through the process of looking up  
19 information on the site, capturing what information is  
20 provided, how it is being provided all those sorts of  
21 things.



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22 And then they have also conducted about 100

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1 interviews so far, finance reviews with the  
2 administrator that run these sites, with the IG folks.  
3 And what they have done in terms of those 50 sites they  
4 really went out and got a variety of state, county and  
5 local web sites to look at. They focused on urban and  
6 rural web sites, you know various that were urban and  
7 rural. They looked at as much geographic diversity as  
8 possible so that the Best Practices Document that comes  
9 out in the end will address some of the regional  
10 differences that might exist in terms of how  
11 information is presented. And will look at the  
12 differences throughout the states.

13 A couple facts about the web site. The  
14 actual first source of these informational web sites  
15 actually date back to around 1996, when the Internet,  
16 the use was not very wide spread yet. And so they  
17 really advanced a lot between then and now.

18 In terms of their initial research one of the  
19 things that they have found to be the most popular  
20 function-- when we went into this we really thought  
21 that the big questions were people wanting the check  
22 their registrations status, their voter registration

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1 status. And to know where their polling place was  
2 located.

3 That was one of the reasons we received this  
4 project, the kind of internal, initial research that we  
5 did to prepare to let this out a contractor indicated  
6 that those were the two big questions.

7 what we actually found is that aside from  
8 those, those are very important actually, but one of  
9 the things that draws people most to these sites are  
10 the sites that have candidate information and sample  
11 ballot information on the sites. Which is something  
12 they are taking a look at in terms of what ways that  
13 can be readily presented to folks. And what they found  
14 is that sites that have the usage increases  
15 dramatically once that information goes up closer to  
16 election time. Once those sites put that information up  
17 the usage goes up.

18 Another interesting thing that we were able  
19 to take a look at this year, and it is going into the  
20 final report actually, is Louisiana set up a web site  
21 to provide voter information to displaced voters. Folks  
22 that were displaced after Hurricane Katrina. And they

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1 set up this web site so that those folks, prior to the  
2 special election in New Orleans, would be able to, from  
3 anywhere in the country, go in and access not only the  
4 information of, you know, the dates and everything,  
5 but were able to get information on the absentee ballot  
6 process, were able to down load applications for  
7 absentee ballots and really provided a lot of  
8 information and was kept up to date. So Publius was  
9 actually able to, because of the timing of our project  
10 was actually able to look at from beginning to end this  
11 process and has spoken with folks in Louisiana about  
12 it. And that is one of the things we will be dealing  
13 with in the final report which we might be able to use  
14 in the future for other studies as well.

15           One of the things that may or may not  
16 surprise you is that number one there is a lot of  
17 interest at all levels for providing these sites. It is  
18 has really been an issue of resources up until now as  
19 to whether or not jurisdictions provide these sites and  
20 how advanced they are.

21           One of the things through the phone calls and  
22 interviews that they have done with existing sites is a

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1 lot of the smaller jurisdictions and the counties have  
2 been kind of stalling further development of these  
3 sites because there is a lot of concern out there about  
4 how the switch to a statewide voter registration list  
5 is going to impact states providing this information  
6 whether or not it is going to be done at a state level.  
7 And kind of remove the need for them to have it at the  
8 local level. So that is one of the concerns that has  
9 come up during the research as well.

10           One thing that shouldn't surprise anybody is  
11 there is no one promotion strategy for these sites that  
12 works. Every location that has them is different as to  
13 how they get the word out about them and how they draw  
14 people to those sites.

15           In terms of timing, just go give everybody an  
16 idea, they have been doing this research for a while  
17 now. They are hoping to-- we are hoping to have the  
18 draft document ready by mid to late summer. So July or  
19 August we are hoping to have a draft document available  
20 which we will-- I will work with the Commissioner to  
21 make sure that we are able to distribute that to both  
22 the Standards Board and the Board of Advisors for

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1 people to be able to look at it, give their feed back  
2 before it goes into the final version which we hope if

3 we can get the draft in mid Summer and we are hoping  
4 that sometime in the early Fall we will be able to have  
5 a final document out there.

6 In terms of the time line we realize it is an  
7 election year. We realize this information is going out  
8 in the Fall. One of the things that we realized early  
9 on was that even last Fall it was to the point where it  
10 was pretty much too late for states and jurisdictions to  
11 implement the suggestions that were going to come out of  
12 this in time to impact this year's elections. So what  
13 we are really hoping to get out of this document is  
14 that it will be available toward the end of this cycle  
15 so that once we get into next year and people start  
16 looking toward the '08 Presidential elections. And we  
17 have gotten past the HAVA deadlines and everybody's  
18 attention starts to shift this information will be out  
19 there so that states, and counties and local  
20 jurisdictions can take the information in here and be  
21 able to implement these sites with enough time to make  
22 them functional and work out all the bugs and

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1 everything before we move into the election year. So  
2 that's what we are looking at in terms of time lines  
3 for this project.

4 I will take questions about both of these  
5 after I finish the second topic

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SPANISH AND ASIAN LANGUAGES WORKING GROUPS.

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9 Many of you know there have been a lot demographic  
10 changes in the country and a lot of-- particularly in  
11 the past decade there is a lot of jurisdictions that  
12 have sizeable populations that fall under Section 203  
13 of Voting Rights Act, or who will soon be, and a lot  
14 jurisdictions. And lot of jurisdictions that didn't  
15 before now have to provide information in alternative  
16 languages.

17 We have seen it and we realize the issues  
18 that come up in terms of jurisdictions that have never  
19 dealt with alternative languages or to some of the  
20 issues that come up and how can they implement this  
21 properly.

22 Prior to my getting here the work had already

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1 started on these projects. It was decided by the  
2 Commission that we should-- really what we should do is  
3 to bring together some working groups that consist of  
4 election administrators, advocacy organizations,  
5 different people that deal with the issues that come up  
6 and deal with them first hand and let us know what sort  
7 of research we can conduct that will help you in that

8 process.

9 HAVA section 241, which is the section that  
10 talks about the studies of election administrations one  
11 of the things that it charges the EAC to do is conduct  
12 research on making information most convenient,  
13 accessible and easy to use for voters including voters  
14 with limited proficiency in the English language. So  
15 that is actually in HAVA. And one of our mandates is to  
16 go out there and find information to make it easier to  
17 provide or to administer elections using alternative  
18 languages.

19 The way we started out was last August we had  
20 the first meeting of the Spanish language working  
21 group. We had that at the EAC offices. And the reason  
22 we chose to deal with the Spanish language first is

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1 number one it is largest alternative language that  
2 folks are dealing with. Most of the-- the majority of  
3 jurisdictions out there that deal with alternative  
4 languages have been dealing with Spanish. And that  
5 really has been because of the growing population size  
6 it has been an issue that a lot of knew jurisdictions  
7 have had to deal with. So we wanted to bring that group  
8 together and see what sort of things we could do. That  
9 was in early August.

10 The next group we decided to bring together  
Page 34

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11 was a group to discuss access to different Asian  
12 languages. Under Section 203 of the Voting Rights Act  
13 there are actually five Asian languages, Asian and  
14 Pacific Islander languages that are covered and that  
15 certain jurisdictions have to provide information in  
16 those languages. That is Chinese, Japanese, Korean,  
17 Vietnamese and Tadolwin (sic). So that working group we  
18 actually had at the end of April, so just about a month  
19 ago we brought that group together.

20           We are looking toward the future, hopefully  
21 sometime next year to be able to bring together a  
22 working group dealing with native American languages.

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1 And that one is going to be really interesting because  
2 with a lot of languages we are talking about languages  
3 that have no written form, they are all spoken  
4 languages. And so that presents a whole additional set  
5 of issues when you're talking about administering  
6 elections and providing information in an alternative  
7 language that you can't write.

8           So basically what all three of these groups  
9 are meant to do is provide the EAC with, or help us in  
10 accessing what sort of language specific projects we  
11 can conduct as an agency.

12           Some of the things that have already come up



13 and that we are actually are working towards is number  
14 one creating translation dictionaries of election  
15 terminology to have a document that would provide a  
16 whole list of election terms and provide a translation  
17 from English to whatever the alternative language is.  
18 The first one we are working on is actually English to  
19 Spanish. And so we are also looking towards doing the  
20 five Asian languages.

21 And one of the biggest complaints we have  
22 gotten in terms of, and I am sure you have all heard,

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1 in terms of trying to provide this information is that  
2 the translation services that are out there aren't  
3 always the best. And when election information gets  
4 translated a lot of time it is a literal translation  
5 and the meaning is really lost when you translate it to  
6 the other language.

7 So we are hoping by providing this tool for  
8 election administrators it can help you all meet the  
9 needs of the communities that you are serving, and the  
10 electorate that you serve.

11 The other project that we actually are  
12 working and we hope to have ready by mid summer is  
13 providing a translation of the National Voter  
14 Registration form. We have the Spanish language  
15 version, the updated one already up on our website.

16 Both the English and the Spanish were recently updated.  
17 But the form hasn't been translated into the five Asian  
18 languages since the FEC first created the initial voter  
19 registration form. So it has been quite a while. And we  
20 are hoping to get that done fairly quickly so that  
21 those jurisdiction can have voter registration forms  
22 available in those languages later this year.

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1 And then finally we are-- one of the roles of  
2 these groups is to provide us not only with the feed  
3 back but to help us prioritize. I mean there is all  
4 these questions all the time for different research  
5 projects that you all think would be useful. And by  
6 bringing these groups together we are hoping to  
7 establish some sort of priority for what we can do  
8 short term to get some immediate assistance out there  
9 and then look at what we can do long term in terms of  
10 these issues.

11 So that is pretty much what the language  
12 groups are doing. So I can take some questions.

13 MR. MARTINEZ: We can move very quickly for  
14 some questions or comments from anybody out there? Any  
15 questions or comments about Public Access Portals or  
16 the working groups we have assembled, Secretary  
17 Kidmeyer.

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18 SECRETARY KIDMEYER: A question in regards to  
19 dialects how do you handle dialects even though it is  
20 the same language?

21 MR. CORTES: That is actually one of the  
22 things we spent a lot of time on actually during both

□

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1 working groups. The Spanish language translations are  
2 the first ones we are working on so I can tell you a  
3 little bit about how we are going to handle that.

4 One of the suggestions we had was to bring  
5 together a group of language experts, academics to  
6 review the work we are doing in terms of translation.  
7 But the other thing that we are doing is we are going  
8 to look at what the regional differences are and  
9 provide alternative terms to reference the same thing.

10 For instance the word ballot is translated  
11 into Spanish is different if you go to Florida if you  
12 go to New York , if you go to California. They all use  
13 different terms for that. In the instances were we can  
14 provide some sort of standard translation term that  
15 everybody understands or alternatively for those were  
16 that doesn't exist to provide, you know, multiples  
17 translations so that depending on where you're at you  
18 can look and see what sort of populations you are  
19 coming from.

20 A lot has to do with country of origin. So

21 providing that information you will be able to go to  
22 the list and say well my jurisdiction has a very large

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1 Puerto Rican population this is probably the  
2 translation form I should use.

3 MR. MARTINEZ: Other questions please? Yes,  
4 John.

5 JOHN LINDBACK: It is a really basic  
6 question. I don't understand the difference between a  
7 Public Access Portal and conventional website. Because  
8 we have had a ton of information out there on a  
9 conventional website. When you talk Public Access  
10 Portals what do you mean exactly?

11 MR. CORTES: It is essentially a voter  
12 information website. And what they are looking at is a  
13 website where you can go in and get information as far  
14 as registration status. It is a polling state  
15 locations, candidate information, all those very  
16 specific election information.

17 We do realize that most states do have basic  
18 sites, whether it is the Chief Election Officer or the  
19 local jurisdictions that have polling place hours and  
20 those things. We are really looking at sites that open  
21 further and are more interactive in terms of the  
22 information that people can pull from them.

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1           MR. MARTINEZ: And some states, I think, have  
2 more experience in putting forth what is regarded as  
3 Public Access Portals. I am looking at Sarah Ball  
4 Johnson who is right next to you because I think  
5 Kentucky is one of the states that has been something  
6 like this for a while. She is whispering to you right  
7 now.

8           I broke my own rule. When you raises your  
9 hand to speak if you can introduce yourself, state your  
10 name for the court reporter. And I apologize, Secretary  
11 Mary Kiffmeyer and John Lindback from Oregon. Mary  
12 Kiffmeyer from Minnesota.

13           Any other questions or comments on anything  
14 that was presented, please.

15           Okay. Edgardo, thank you very much. I  
16 appreciate your work.

17           Again as a quick background what we are  
18 presenting to you over the next day and a half, and  
19 what we just started with the first four presentations  
20 are research projects that are grounded in some place  
21 in our government statute, within HAVA.

22           We are either wearing a hat of producing a

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1 national clearing house of best practices; or we are  
2 wearing a hat of having to produce voluntary guidance  
3 to help clarify title free requirements. So there are  
4 different hats that the EAC will wear statutorily that  
5 when we wear the hat we want to wear it in the manner  
6 that is consistent with the advice that we get from our  
7 statutory boards, and that is you.

8           Again what we do proactively is to try to  
9 reach out to all of you, as many as we can  
10 individually, throughout the course of our fiscal year,  
11 asking you to participate in working groups, many of  
12 you have done so, seeking your advice through our  
13 fiscal year. We have a chance to get you all in one  
14 room once or twice a year to put it all in front of you  
15 and solicit your candid feedback.

16           So again I encourage your questions. And it  
17 doesn't have to happen in this hour. We can continue  
18 this conversation throughout the duration of the next  
19 day and a half I am going to turn the mic over, after  
20 the break, to your Executive Board and they will  
21 commence the official gavel of your Standards Board  
22 Meeting. So thank you very much for being here once.

1 Thank you for what I know will be a productive day and  
2 a half. The four Commissioners will be in and out  
3 because we have the Board of Advisors going on  
4 simultaneously two floors above you we will be  
5 alternating in and out. But all four Commissioners will  
6 be around for the next couple of days. We look forward,  
7 I certainly look forward to engaging in conversation  
8 both with the body collectively and all of you  
9 individually.

10 So with that Madam Chair, I have 1:25 if you  
11 want to allow for a ten break we can just go five  
12 minutes off your schedule. I have 1:25 if we can  
13 reassemble at 1:35. Thank you very much.

14 ( Recess from 1:25 to 1:45 P.M.)

15 MS. NIGHTSWONGER: Okay. Commission Martinez  
16 has already welcomes you and I would also like to  
17 welcome you to our meeting here of the National  
18 Standards Board. And I am only here because Mike left  
19 us. He had the nerve to go out on us. And you all  
20 probably got that email about him getting a new  
21 fantastic job. So he kind of left me hanging out here.  
22 So all of you are going to have to be very patient with

1 me today and tomorrow and please don't throw tomatoes  
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2 at me from the crowd. I will try to get someone up here  
3 in a few minutes to help keep me in line.

4 Before we begin to day I guess I should call  
5 this meeting to order first of all. I don't have a  
6 gavel. I don't know if Adam took it or what happened. I  
7 would like to just talk about a couple of ground  
8 rules that I'd like to put in place here and that is  
9 for our Court Reporter here is going to be taking the  
10 minutes, the official minutes of this meeting so we  
11 really do need to speak in a microphone when we go to  
12 the floor. And we are going to have some roving mics  
13 so that you don't always have to get out of your seat.  
14 So if you will raise your hand I will call on you and  
15 the people carrying the mic will get a microphone to  
16 you. And I would like you to address the group with  
17 your name and where you are from please. And then you  
18 can give your question or whatever. So if you can just  
19 try to do that. That way we will know who is talking  
20 and what they are saying and we can hear very well.

21 The first thing we need to do is call the  
22 role. So I would like to have Bill Campbell if you

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1 would go ahead and do that. If you would respond when  
2 he call your name so we can make sure we have a quorum  
3 at this meeting.



4 MR. CAMPBELL: I will read the state name and  
5 then the members.  
6 Alabama, Nancy Worley.  
7 MS. WORLEY: Here.  
8 MR. CAMPBELL: Luke Cooley (no response).  
9 Alaska, Whitney Brewster.  
10 MS. BREWSTER: Here.  
11 MR. CAMPBELL: Shelly Crowden?  
12 MS. CROWDEN: Here.  
13 MR. CAMPBELL: American Samoa? Soliai T.  
14 Fuimaono?  
15 MR. FUIMAONO: Here.  
16 MR. CAMPBELL: FILIVAA MAGEO? (No response).  
17 MR. CAMPBELL: Arizona? Kevin Tyne.  
18 MR. TYNE: Here.  
19 MR. CAMPBELL: Mitch Etter?  
20 MR. ETTER: Here.  
21 MR. CAMPBELL: Arkansas, Charlie Daniels? (No  
22 response) .

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1 MR. CAMPBELL: Mary Lou Slinkard?  
2 MS SLINKARD: Here.  
3 MR. CAMPBELL: California, Brad Clark?  
4 MR. CLARK: Here.  
5 MR. CAMPBELL: Coney McCormack? (no response).  
6 MR. CAMPBELL: Colorado, Gigi Dennis (no  
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7 response).

8 MR. CAMPBELL: Russ Ragsdale? (No response).

9 Connecticut. Michael Kozik? (No response).

10 Sandra Hutton? (No response).

11 Delaware, Frank Calio? (no response).

12 Howard Sholl?

13 MR. SHOLL: Present.

14 MR. CAMPBELL: District of Columbia, Alice

15 Miller?

16 MS. MILLER: Here.

17 MR. CAMPBELL: Jonda McFarlane? (no response)

18 Florida; Dawn Kimmel Roberts?

19 MS. ROBERTS: Here.

20 MR. CAMPBELL: Bill Cowles?

21 MR. COWLES: Here.

22 MR. CAMPBELL: Georgia, Kathy Rogers (No

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1 response) Lynn Bailey?

2 MS. BAILEY: Here.

3 MR. CAMPBELL: Guam, Gerald Taitano?

4 MR. TAITANO: Here.

5 MR. CAMPBELL: Hawaii, Scott Nago?

6 MR. NAGO: Here.

7 MR. CAMPBELL: Glenn Takahashi?

8 MR. TAKAHASKI: Here.

9 MR. CAMPBELL: Idaho. Timothy Hurst? (no  
10 response) Dan English? (no response).  
11 Illinois, Daniel W, White?  
12 MR. WHITE: Here.  
13 MR. CAMPBELL: Richard Cowen? (No response)  
14 Indiana, Todd Rolita?  
15 MR. ROKITA: Here.  
16 MR. CAMPBELL: The Honorable Shannon  
17 Weisheit?  
18 MS SHANNON WEISHEIT: Here.  
19 MR. CAMPBELL: Iowa, Chet Culver? (No  
20 response) Renee McClellan? (No response).  
21 Kansas Ron Thornburgh? (No response).  
22 Donald Merriman? (no response).

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1 Kentucky. Sarah Ball Johnson?  
2 MS. JOHNSON: Here.  
3 MR. CAMPBELL: Don Blevins?  
4 MR. BLEVINS: Here.  
5 MR. CAMPBELL: Louisiana, Marietta Spencer  
6 Norton? (No response).  
7 Louie Bernard?  
8 MR. BERNARD: Here.  
9 MR. CAMPBELL: Maine, Julie Flynn?  
10 MS. FLYNN: Here.  
11 MR. CAMPBELL: Clairma Matherne?

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12 MS. MATHERNE: Here.  
 13 MR. CAMPBELL: Maryland, Linda H. Lamone? (No  
 14 response).  
 15 Kim A. Atkins? (No response).  
 16 Massachusetts, William Francis Calvin? (No  
 17 response) William.  
 18 MR. CAMPBELL: I am here.  
 19 Michigan, Thomas Luitje?  
 20 MR. LUITJE: Here.  
 21 MR. CAMPBELL: Tony Bartholomew?  
 22 MR. BARTHOLOMEW: Here.

□

1 MR. CAMPBELL: Minnesota, Mary Kiffmeyer?  
 2 MS. KIFFMEYER: Present.  
 3 MR. CAMPBELL: Sharon Anderson?  
 4 MS. ANDERSON: Here.  
 5 MR. CAMPBELL: Mississippi, Jay Eads? (No  
 6 response) Marilyn Avery? (No response).  
 7 Missouri, Leslye Winslow?  
 8 MS. WINSLOW: Here.  
 9 MR. CAMPBELL: Richard T. Struckhoff?  
 10 MR. STRUCKHOFF: Here.  
 11 MR. CAMPBELL: Montana, Elaine Gravelly? (No  
 12 response) Vickie Zeier?  
 13 MS. ZEIER: Here.

14 MR. CAMPBELL: Nebraska, John Gale? (no  
15 response) Roberta Zoucha? (No response).  
16 Nevada, Dean Heller? (No response).  
17 Harvard L. Lomax?  
18 MR. LOMAX: Here.  
19 MR. CAMPBELL: New Hampshire, Anthony Stevens?  
20 MR. STEVENS: Here.  
21 MR. CAMPBELL: Carol Johnson?  
22 MS. JOHNSON: Here.

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1 MR. CAMPBELL: New Jersey, Maria Delcoch?  
2 MS. DELCOCH: Here.  
3 MR. CAMPBELL: Joanne Ambruster?  
4 MS. AMBRUSTER: Here.  
5 MR. CAMPBELL: New Mexico, Rebecca  
6 Vigil-Geron?  
7 MS. VIGIL-GERON: Here.  
8 MR. CAMPBELL: David Kunko? (no response)  
9 New York, John Haggerty?  
10 MR. HAGGERTY: Here.  
11 MR. CAMPBELL: Edward Szczesniak?  
12 MR. SZCZESNIAK: Here.  
13 MR. CAMPBELL: North Carolina, Johnnie  
14 McLean?  
15 MS. MCLEAN: Here.  
16 MR. CAMPBELL: Kathie Cooper? (No response)

17 North Dakota, James Silrum?  
 18 MR. SILRUM: Here.  
 19 MR. CAMPBELL: Michael M. Montplairer?  
 20 MR. MONTPLAISER: Here.  
 21 MR. CAMPBELL: Ohio, J. Kenneth Blackwell?  
 22 (no response).

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1 Steve Harsman?  
 2 MR. HARSMAN: Here.  
 3 MR. CAMPBELL: Oklahoma, Clint Parr? (No  
 4 response).  
 5 Oregon, Jack Lindback?  
 6 MR. LINDBACK: Here.  
 7 MR. CAMPBELL: John Kauffman?  
 8 MR. KAUFFMAN: Here.  
 9 MR. CAMPBELL: Pennsylvania, Pedro Cortes?  
 10 (No response) Regis Young?  
 11 MR. YOUNG: Present.  
 12 MR. CAMPBELL: Puerto Rico, Nester J. Colon  
 13 Berlingeri? (No response).  
 14 Juan M. Toledo-Diaz?  
 15 MR. TOLEDO-DIAZ: Here.  
 16 MR. CAMPBELL: Rhode Island, Jan Ruggerio?  
 17 (no response).  
 18 Marian Clarke? (no response).

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19 South Carolina, Marci Andino? (No response)  
20 Marilyn Bowers?  
21 MS. BOWERS: Here.  
22 MR. CAMPBELL: South Dakota, Kea Warne.

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1 MS. WARNE: Here.  
2 MR. CAMPBELL: Sue Roust?  
3 MS. ROUST: Here.  
4 MR. CAMPBELL: Tennessee, Brook Thompson? (No  
5 response) Joe Enock? (No response).  
6 Texas, Trey Trainor?  
7 MR. TRAINER: Here.  
8 MR. CAMPBELL: Dana DeBeauvoir?  
9 MS. DeBEAUVOIR: Here.  
10 MR. CAMPBELL: Utah, Michael Cragun?  
11 MR. CRAGUN: Here.  
12 MR. CAMPBELL: Robert Pero?  
13 MR. PERO: Here.  
14 MR. CAMPBELL: Vermont, Deborah Markowitz?  
15 MS. MARKOWITZ: Here.  
16 MR. CAMPBELL: Arnette Cappy? (No response).  
17 MR. CAMPBELL: Virginia, Jean Jansen?  
18 MS. JANSEN: Here.  
19 MR. CAMPBELL: Allan Harrison, Jr.?  
20 MR. ALLAN HARRISON, JR.: Here.  
21 MR. CAMPBELL: Virgin Islands, Corinna  
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22 Hallyard Plaskett?

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1 MS. PLASKETT: Here.  
 2 MR. CAMPBELL: Natalie Thomas?  
 3 MS. THOMAS: Here.  
 4 MR. CAMPBELL: Washington, Paul Miller?  
 5 MR. MILLER: Here.  
 6 MR. CAMPBELL: Bob Terwilliger?  
 7 MR. TERWILLIGER: Here.  
 8 MR. CAMPBELL: West Virginia, Benjamin  
 9 Beakes? (No response).  
 10 Gary Williams? (No response) .  
 11 Wisconsin, Kevin Kennedy?  
 12 MR. KENNEDY: Here.  
 13 MR. CAMPBELL: Sandra L. Wesolowski?  
 14 MS. WESOLOWSKI: Here.  
 15 MR. CAMPBELL: Wyoming, Peggy Nightswonger?  
 16 MS. NIGHTSWONGER: Present.  
 17 MR. CAMPBELL: Julie Freese?  
 18 MS. FREESE: Here  
 19 .  
 20 MS. NIGHTSWONGER I believe we need 56  
 21 members for a quorum, so we will figure this out.  
 22 MR. CAMPBELL: Is there anyone that did not



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1 respond to the roll call?

2 MS. NIGHTSWONGER: Okay. We have a sufficient  
3 number of members to conduct business. We will move  
4 ahead.

5 Before we get started here with some other  
6 things on the agenda I would like to introduce the  
7 Executive Board if I could. Probably most of you know  
8 who they are but I'd like them to stand so you can make  
9 sure you know what their face looks like in case you  
10 want to bombard them with a problem or an issue that  
11 you're having.

12 Actually is the room okay? I want to ask  
13 that. Is anyone too hot or too cold or do we care that  
14 they are uncomfortable?

15 So if I could just have you stand when I call  
16 your name. First of all Indiana Secretary of State Todd  
17 Rokita. And Vermont's Secretary of State Deborah  
18 Markowitz. Oregon Director of Elections John Lindback.  
19 Kentucky Executive Director Sarah Ball Johnson. City  
20 Clerk of Woburn, Massachusetts Bill Campbell who is up  
21 here with me. And Clark County Registrar of Voters,  
22 Harvard Lomax. And last but not least, even though he

□

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1 came last Natchitoches Clerk of the Court, Louie  
2 Bernard. And Louie do you want to come up. You have  
3 something to say. I am almost afraid to call him to the  
4 table. So that's your Executive Board. And I really  
5 appreciate all of them and the help they haven given  
6 me. Now you know what they look like in case you have  
7 forgotten since Denver.

8 MR. BERNARD: I was asked to be the chaperon  
9 for the Executive Board when we were first elected. I  
10 was not here last night. I have nothing to do with last  
11 night. I don't know what they did and I don't want to  
12 know what they did.

13 It is very good to see all of you. I couldn't  
14 come in until this morning. Beverly Kauffman and I flew  
15 up together from Houston. We just happened to meet up,  
16 it is good to be here and see all these familiar faces  
17 again.

18 As most of you know Ray Martinez has  
19 announced that he will be leaving the EAC in June. I am  
20 personally very pleased about that because anyone who  
21 has worked with Ray, you know how pushy he can be  
22 (laughter). For almost two years we all have had the

□

1 honor and privilege to work with this tireless and  
2 selfless man. And we all better people for and a better  
3 EAC for him having come our way.

4 I don't know about you, I sense in this  
5 country a partisanship that almost strangles everything  
6 we try to do. Our Commissioner since the day I came in  
7 here at the meeting in Houston. I've always been amazed  
8 how they seem to get along and work together with one  
9 another. I have no doubt that behind closed doors when  
10 we go home they may holler and scream but there is an  
11 outward appearance that lets try to respect each other  
12 and accomplish something for the entire  
13 group. And I think that is a good thing to do.

14 Ray Martinez has been at the heart of all  
15 that is positive, that has happened with EAC in this  
16 relatively short period of time.

17 He is one of the four, what I call one of the  
18 four T-Rex's at the EAC but the endearing quality  
19 about Ray is that he doesn't know he is one of those.  
20 He is a man of great humility. He is a man of great  
21 sincerity and he is someone more than anything else  
22 respects someone's point of view.

□

1 where I come from the nicest thing that can  
2 be said about a man is that he is truly a gentleman.

3 And I think without question, despite if you agree with  
 4 everything that Ray has said or done, that Ray Martinez  
 5 is truly a gentleman.

6 Ray, the Executive Board and the Standards  
 7 Board would like to wish the very best in all that  
 8 comes down your way in the future we want to give to  
 9 you our heartfelt appreciation for all you have done  
 10 for us.

11 I think it would be a shame for anybody to be  
 12 a part of any organization and leave without being able  
 13 to say they made a difference. I don't think Ray  
 14 Martinez has anything to worry about when it comes to  
 15 having made a difference at the EAC.

16 So I will close it by allowing Peggy to  
 17 present this plaque. And Ray I just want to tell you  
 18 that on behalf of all of us it is not an original  
 19 blessing but it is something that I feel is very  
 20 appropriate as you leave, the old Irish blessing, we  
 21 would all say to you:

22 "May the Road rise to meet you.

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1 May the wind be always at your back.  
 2 May the sun shine warm upon your face.  
 3 May the rain fall softly upon your fields.  
 4 And until we all meet again may the Lord.

5 Hold you in the palm of His hand."

6

7 Ray, would you come forward you. (Applause).

8 Presented to Ray Martinez III for selfless

9 and exemplary service to the Elections Assistance

10 Standards Board, our heartfelt thanks for going the

11 extra mile for America's voters this 23rd day of May

12 2006, by a very appreciative Executive Board.

13 MR. MARTINEZ: Thank you very much. I am

14 going to get out of your way quickly. I can not thank

15 you, Louie, for the wonderful words and my thanks to

16 all of the members of the Executive Board. I have had

17 the distinct privilege of working very closely now for

18 the past year that I feel like I am a close friend with

19 each and every one of them for a very long time now. I

20 am so appreciative.

21 And you know I am still the Commissioner for

22 at least a few more weeks and I am going to savor every

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1 moment of it because has been truly for me the most

2 fulfilling professional experience in my life.

3 In my household growing up in south Texas

4 public service meant something. And I am proud to say

5 to my family and all my friends that I have tried to

6 fulfill that. So I thank you very much. It is with

7 genuine sincerity it has been a privilege for me, a

8 real privilege and honor, to work with all of you. So  
9 thank you very much now get to work.

10 (Applause).

11 MS. NIGHSWONGER: Thank you Commissioner.

12 The first order of business is we need to  
13 a appoint a Parliamentarian. And Julie has been so kind  
14 to do that for us in the past. She too has left us. I  
15 don't know what is going on here. Everyone is leaving  
16 us.

17 So I would like to open this up. I am sure  
18 many of you are Parliamentarians and would love the  
19 opportunity to sit up here beside me and keep me in  
20 line. So is there anyone who would like to do that  
21 today? Don't be shy. We know who you are. Some on.  
22 Nobody? Lou, what do you think.

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1 MR. BERNARD: I think they are being shy.

2 I know there is someone out there who can do  
3 it. You don't want me.

4 MS. NIGHSWONGER: Anybody? I really do need  
5 help, honest. Secretary Kiffmeyer, oops she is still  
6 deciding here. Thank you so much for volunteering, if  
7 you will come up and take the seat on my left. Are you  
8 right handed.

9 MS. KIFFMEYER: Either hand will do.

10 MS. NIGHSWONGER: Thank you so much.

11 The next thing on our agenda here, and I  
12 think all of you got an agenda I hope. They were in  
13 your books. If you need an agenda please raise your  
14 hand we can get you one for today's meeting. As we look  
15 down over the agenda we are going to do a little bit of  
16 Board business here. And then following that we will  
17 move into some presentations from the EAC.

18 If we can move ahead with the agenda the  
19 chair will entertain a motion to adopt the agenda if we  
20 could first.

21 MS. BARTHOLOMEW: I so move.

22 MS. NIGHSWONGER: All in favor?

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1 ( Aye).

2 MS. NIGHSWONGER: Opposed? I hear no opposed,  
3 okay. The Aye's have it and we have an agenda.

4 As for the minutes in your book, behind Tab 4  
5 I believe it is we have a synthesis of the Denver  
6 meeting. I don't know about you but I probably would  
7 like to look over those a little bit. And I was  
8 wondering if we can postpone talking about the minutes  
9 until tomorrow sometime. That would give you tonight  
10 to look over the minutes of the synthesis of what was  
11 done in the Denver meeting.

12 I think that would be better. There is quite

13 a lot for you to read after just picking up your books.  
14 So we will postpone that on the agenda until tomorrow  
15 that would work better.

16           Okay. You all have your books. And I think  
17 the books are pretty self explanatory. Everything is  
18 tabbed and put together very nicely. So we will be  
19 working from the agenda. As you notice all of the  
20 presenters have information in our books. And you will  
21 find them behind the tabs as indicated in your book.

22           Right now we do have some discussion about

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1 our bylaws when we were in Denver last year as many of  
2 you probably remember. And we actually adopted our  
3 bylaws when we were in Denver. But I am going to ask  
4 Kevin Kennedy if he would come up. Kevin worked on the  
5 original bylaws committee, or whatever that committee  
6 was called, when we were trying to establish bylaws.  
7 And I would like him to give us a brief presentation on  
8 sort of what is going on and the history.

9           I know many of you are new to our Board  
10 because someone has left and you have been appointed  
11 to this position and you may not even know some of the  
12 things that have gone on in the past. So Kevin if you  
13 would just give us a brief presentation about that I  
14 would appreciate it.



15 MR. KENNEDY: Thank you. First I would like  
16 to welcome Peggy to this new position. And challenge her  
17 during the course of this meeting to pronounce the name  
18 of the New Mexico Secretary of State and the Travis  
19 County clerk (laughter).

20 MS. NIGH SWONGER: I have been working at it.

21 MR. KENNEDY: The minutes-- I'm sorry. The  
22 bylaws are set up behind Tab 2. And as Peggy said were

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1 adopted at the last meeting. The minutes provide a  
2 very good summary of the fact that we had three motions  
3 to change those bylaws. All three of those bylaws  
4 failed. So what you see in front of you are the bylaws.

5 I would like to draw your attention to a few  
6 sections of that so that your familiar with it because  
7 as a new organization. I think this tells you how we  
8 are going to operate. It is a point of reference.

9 One of the motions that failed dealt with  
10 Section 23 on authority, page one on how to treat non  
11 partisan members of the Commission of the Standards  
12 Board.

13 I'd also want to make sure you are familiar  
14 with the Procedures of Nominating of new members of the  
15 Board, members of the Executive Board that are set out  
16 on page 2 of the materials under Section 4.

17 Section C of the bylaws themselves, the  
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18 chair, on page 3 certain duties of a client, we have  
19 two standing committees according to the bylaws. One is  
20 a nominating committee. So there will be some action on  
21 that towards the end of the year. And our President  
22 will appoint a Chair for that committee and the Board

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1 will find members.

2           The same is true of the bylaws committee. A  
3 chair will be appointed in the interim. And committee  
4 members will volunteer for that. That is in Section 4F,  
5 on page 3.

6           The final thing we had some questions that  
7 failed at the last meeting dealing on how we establish  
8 quorum. And whether or not we use proxy votes. And if  
9 you look at Section 5-- I'm sorry, Section 6 on page 8  
10 it describes the voting procedures.

11           Section 7 proposes how we handle the actual  
12 bylaws for the committee. And with Section 7 I will  
13 point out the committee wants us to establish and be  
14 charged with developing a forum. My experience of  
15 working with this group in the last year in putting a  
16 these bylaws together is that there is no shortness of  
17 ideas on how to come up with rules and regulations. One  
18 of the proposals is there will be a sample form so that  
19 we can have a very orderly process in doing this.

20 I think it is very important for all of the  
21 members to take the time to review the materials that  
22 are on pages one through ten before the next meeting,

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1 if you have ideas on changes to the bylaws. In terms of  
2 that my guess is that the Bylaws Committee will have a  
3 form in place.

4 And what I would like to do for my final  
5 comment before is there any questions is to point out  
6 these initial set of bylaws would not have happened if  
7 it were not for Joanne Armbruster, Bill Campbell, Tonni  
8 Bartholomew, Howard Sholl all made dedicated attempts  
9 to review these bylaws, make suggestions and edit the  
10 initial document that was put together by Julie  
11 Horowits (sic) so with that unless there are any  
12 questions that is mu summary.

13 MS. NIGH SWONGER: I think I might before take  
14 questions from the floor. I think a little apology to  
15 the Executive Board I believe we asked for people who  
16 had an interest in working on the bylaws committee to  
17 indicate that somehow while we were at the Denver  
18 meeting. And we never really formally asked for that.  
19 So I would just indicate that right now that if you  
20 want to look at our bylaws and propose any changes we  
21 do need a committee to work on that. So I would really  
22 like you to let me know if you have any interest in

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1 doing that because I think it is out job to appoint a  
2 Bylaws Committee. Seven members?

3 MR. KENNEDY: Seven members.

4 MS. NIGHSWONGER:

5 So if you have an interest on working on bylaws I  
6 would really challenge you to let me know that. You can  
7 email me. My email address is in the book. And I would  
8 be happy to hear you about that. Any questions for  
9 Kevin?

10 MS. Nighswonger: One thing that I failed to  
11 mention. It was just a little housekeeping thing. In  
12 the book where the members are listed. Behind Tab 3. I  
13 want you all to really take a good look at that list  
14 and also the bios for all of the members of the  
15 Standards Board because I think there are some people  
16 who thing that maybe they were left out, or maybe their  
17 bio isn't correct, or it is an old one. Anyway please  
18 look at that while you're here at this meeting and make  
19 sure that everything on your information is correct.  
20 Read your bio. And if there are any changes to anything  
21 on that page or in that section I would suggest you get  
22 hold of Adam. You can email Adam at the EAC and he will

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1 get those changes made before we send out anymore  
2 mailings or meet again. So it you will take a look at  
3 that that will be great.

4           Okay. I think I would like to call  
5 Commissioner Martinez to the front again. He is going  
6 to review and present the Standards Board charter. And  
7 we can talk about that little bit.

8           MR. MARTINEZ: Thank you, Madam Chair.

9           One person, and actually I believe you have  
10 heard his name over and over again, but needs to be  
11 properly introduced is Adam Ambrosi(sic) who is my  
12 special assistant and who had helped to pull together  
13 all of the logistics and all of the preparations for  
14 this meeting. He has done a terrific job. He did it in  
15 Denver. Adam is your point of contact for anything that  
16 you need. He will be floating around here for the next  
17 couple of days and will be available to help in any  
18 way. So that is who Adam Ambrosi is.

19           The Charter that we took up, the Federal  
20 Advisory Act, governs advisory committees to Federal  
21 agencies. It requires that we adopt a charter in the  
22 next couple of days.

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1 MS. NIGHSWONGER: If you don't have a copy of  
2 the charter it is outside on the table.

3 MR. MARTINEZ: Adam can you get a stack of  
4 copies and make them available.

5 MS. NIGHSWONGER: Maybe we can them pass out.

6 MR. MARTINEZ: Right.

7 MS. NIGHSWONGER: I am sorry. I meant to do  
8 that.

9 MR. MARTINEZ: Yes i should have done that.  
10 But we have them up front and Adam will get a stack and  
11 walk down the center isle here and pass them out.

12 The Charter, Madam Chair, is required under  
13 the Federal Advisory Committee Act and it essentially,  
14 I have a copy of one in front of me this is the Charter  
15 that governed the authority of this Advisory Committee  
16 for the past two years. And it simply has to be  
17 readopted. It is required to be readopted. And we  
18 readopt it every two years. And you have reached the  
19 two year mark.

20 Essentially the Charter reiterates it just  
21 takes the authority and responsibilities that come  
22 straight out of our governing statute which is the Help

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1 America Vote Act puts it into a Charter type of format  
2 and says, here are your responsibilities, here is how  
3 we are going to carry out those responsibilities. It a  
4 s pretty straight forward document. And we will ask  
5 that you all will allow for the Charter to be adopted  
6 once again.

7 And, Madam Chair, of course, if there is any  
8 questions or if there is a desire to wait until your  
9 plenary session tomorrow in case anybody has any  
10 questions or concerns obviously I don't think that is a  
11 problem from our perspective. It is just before you  
12 leave here at the close of business tomorrow we  
13 obviously need to readopt your Charter. As it is now  
14 about to expire. Thank you. Back to you Madam Chair.

15 MS. NIGH SWONGER: Thank you, Commissioner. I  
16 need a motion.

17 MS. VIGIL-GORON: Rebecca Vigil-Gorom from  
18 the State of New Mexico. I make a motion for adoption  
19 if there is no objection from the other members.

20 MR. KENNEDY; I will second that motion. I am  
21 Kevin Kennedy.

22 MS. NIGH SWONGER: All in favor?

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1 (Ayes from the audience).

2 MS. NIGH SWONGER: Opposed? Motion carries.

3 MR. MARTINEZ: Thank you very much.  
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4 MS. NIGHSWONGER: I'm sorry. I am out of  
5 order. We did not have discussion. Too late the motion  
6 carried.

7 Would like to introduce my secretary, Joe  
8 Meyer. I am so nervous about this you all conduct  
9 theses meetings a lot on a local level. This is not  
10 like we do in Wyoming. We take a sot gun and when  
11 someone is out of order we just shoot it. (laughter) I  
12 guess that would go over big here.

13 Okay. Next item on our agenda is the  
14 election of our Executive Board vacancy. With Mike  
15 leaving that left a vacancy on the Standards Board and  
16 on the Executive Board. Now when we went to figure out  
17 how to figure out how to fill this vacancy nothing was  
18 very clear about that in our Bylaws. So there is  
19 something for you to do.

20 So what the Board talked about-- many of you,  
21 or all of you, should have received emails from Adam  
22 with the names of the people who are interested in

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1 filling that vacancy. What the Executive Board talked  
2 and decided to do because we didn't have a nominating  
3 committee either, which is something that we need to  
4 appoint and get a nominating committee before our next  
5 meeting. We decided to go ahead and throw that out for



6 people to put their names in for that position. We did  
7 have four people that showed interest for that  
8 position. And I believe Adam set their bios out, that  
9 are over there on the table. That is another thing that  
10 is on the table. So if you don't have them with you  
11 maybe raise your hand and we can get you a copy of that  
12 also.

13           What we decided to do is take these names-- I  
14 would like the four people who did submit their names  
15 and their bio to give us a two or three minute  
16 introduction to themselves so that we will know their  
17 face and know who they really are. And I am going to  
18 give them that opportunity. And then we would like to  
19 pass out a paper ballot. And we are going to let all  
20 the voting members vote for one person that he would  
21 like to fill this vacancy on the Executive Board. And  
22 we have a very responsible Counting Board that is going

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1 to handle those ballots for us. Did everyone get a copy  
2 of the bios?

3           MR. CAMPBELL: Can I say something?

4           MS. NIGHSWONGER: Yes, Bill, you can say  
5 anything that you want.

6           MR. CAMPBELL: The bylaws do provide a method  
7 by which a method is filled. And that is the Executive  
8 Board Interim appointment. But we, as an Executive

9 Board, have discussed this. We took the message and  
10 hold closely the message that we received when we were  
11 first appointed or elected as an Executive Board and  
12 that is we never want the full Board to feel that we  
13 are trying to usurp any authority. And although you  
14 have delegated it to us we decided the best practice  
15 although it was only a four or five month period was  
16 actually wait to hold the position vacant and have the  
17 full election take place today.

18 So the by laws do have a provision that it  
19 didn't have to have sufficient information to allow us  
20 to set up that election today. We have a Nominating  
21 Committee and deadlines to next February. So I hope you  
22 understand how we got here and how we tried to limit

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1 the selection process without limiting the selection  
2 process and that the Bylaws Committee will know that  
3 one of their first tasks is to try to work out how this  
4 interim election will be can be made.

5 MS. NIGHSWONGER: Secretary Markowitz?

6 MS. MARKOWITZ: I am sorry for not thinking  
7 about this morning at our Executive Board meeting  
8 preparing for this today. But under Roberts Rules in  
9 order to have a paper ballot for elections we need to  
10 have a vote to do so. So I will actually so move.

11 MS. NIGHSWONGER: It is in the regular bylaws  
12 already.

13 MS. MARKOWITZ; Oh, good so it's in the  
14 regular bylaw. But thank you. Anyone else on our board  
15 want to make any comments about how we came to this  
16 process?

17 okay. If not I'd like to introduce the four  
18 people. And if you would just step to the microphone.  
19 First I am going to call Carol Johnson who is the  
20 Deputy City Clerk from Manchester, New Hampshire.  
21 Anything you want to say, you can tell us about  
22 yourself.

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1 MS. JOHNSON: Good afternoon, my name is  
2 Carol Johnson. I am from Manchester, New Hampshire and  
3 I am the local election official. I have been in this  
4 municipal business for 29 years, hopefully I don't look  
5 it. So I have been around for a while. I am a certified  
6 municipal clerk. I have been involved in the City  
7 Clerk's Office since 1988. It was not my first  
8 introduction to elections but that is where I started  
9 helping run them for the city.

10 I guess somebody said to me very nicely in  
11 the hallway a little while ago that with every great  
12 act there are some unattended consequences which is why  
13 I responded to the email.

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14           My bio is not contained in the book which is  
15 why I am mentioning that although I have been around  
16 for a couple of years. I am a certified municipal  
17 clerk. I have worked as the mediator, if you will, with  
18 the State and a lot of local election officials in the  
19 process of delving out the processes that Howard has  
20 brought us.

21           And the reason for responding to all of that  
22 was I think local election officials are the ones that

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1 frequently advise State because we are in the nitty  
2 gritty and we are in with the details of it. And we  
3 frequently work with other municipal and local election  
4 officials and help get through the process in a  
5 positive manner which is not always easy talk but  
6 usually we can get there.

7           The Standards Board is very much that. It is  
8 in an advisory capacity but the devil is in the detail.  
9 And I think this is the Board that needs to focus on  
10 those details for the EAC. So with that I will part  
11 company because we have a lot on our agenda today.  
12 Thank you.

13           MS. NIGHSWONGER: Thank you, Carol. Okay,  
14 Sandi Wasolowski. I hope I said that correctly Sandi is  
15 the Franklin City Clerk. She is from Franklin,

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